



**KNOW YOUR RIGHTS**  
A GUIDE FOR  
PUBLIC SCHOOL STUDENTS  
IN WASHINGTON



# **Know Your Rights**

## **A Guide for Public School Students in Washington**

This guide provides general information on students' rights in Washington state public schools. It is *not meant to provide legal advice*. This guide does not address the rights of students in private schools, tribal schools, public colleges or universities.

For more information on related issues, see the ACLU of Washington publications: **Parents' Guide to Public School Discipline in Washington**, **Parents' Guide to Truancy in Washington**, and **Parents' Guide to School Board Advocacy in Washington**, available on our Web site: [www.aclu-wa.org](http://www.aclu-wa.org)

Cover design graciously donated by:  
Michael Mahoney of Hat Head Studios, LLC

Published June 2007

A project of the American Civil Liberties Union of Washington  
Foundation

## TABLE OF CONTENTS

<b>I. Know Your Rights</b> .....	<b>4</b>
<b>II. How to Be Your Own Advocate</b> .....	<b>6</b>
<b>III. Freedom of Expression</b> .....	<b>11</b>
A. Free Speech in Cyberspace .....	14
B. Student Newspapers .....	15
C. Library Books and Internet Filters .....	16
D. Protests and Demonstrations .....	17
E. Pledge of Allegiance .....	18
F. Dress Codes .....	18
<b>IV. Freedom of Religion</b> .....	<b>20</b>
A. Free Exercise of Religion .....	21
B. Government Establishment of Religion .....	22
<b>V. Student Clubs</b> .....	<b>24</b>
<b>VI. Equal Protection: Freedom from Discrimination</b> ...	<b>25</b>
A. Harassment .....	26
B. Lesbian, Gay, Bisexual, Transgender and Questioning Students .....	27
C. Discrimination and Disparities in Discipline .....	28
D. Gender Discrimination in Athletics .....	29
<b>VII. Sexual Health and Education</b> .....	<b>31</b>
<b>VIII. School Searches and Police in Schools</b> .....	<b>34</b>
A. School Searches .....	36
B. Drug Tests and Dog Sniffs .....	38
C. Police Interrogation .....	39
<b>IX. Student Records: Privacy and Access</b> .....	<b>44</b>
<b>X. The Right to a Free Public Education</b> .....	<b>48</b>
A. Who Can Enroll and What Are the Requirements .....	49
B. Compulsory Attendance: The Becca Bill .....	50
C. Special Education Services .....	52
D. Bilingual Education .....	53
<b>XI. School Discipline and Grievance Procedures</b> .....	<b>55</b>

## KNOW YOUR RIGHTS!

Schools are places for growing, inquiring minds. The process of growth often includes questioning or rejecting established values. And that can be uncomfortable for school authorities. On the other hand, to create an educational environment, schools must be able to impose a certain degree of discipline and order.

By understanding your rights, you can help make sure that they are protected.

### Have you ever wondered...

Have you ever wondered whether you can get in trouble for writing about your school on your own Web page at home; whether you can form a gay/straight alliance club; wear a t-shirt protesting the war or quote scripture as part of a class assignment?

### Have you ever wondered...

Have you ever wondered whether it was okay for a police officer to search your locker; whether you had to answer if a police officer asks you questions, or whether the school could tell your parents if you asked the counselor about sexual health or birth control pills?

*This guide* will help you understand what your rights are in many situations. And when you know your rights, you can speak up when they are being violated.

Young people are often told that they do not have the same rights as adults. In some cases, that is true. But despite some restrictions, young people do have rights. And for many questions that come up at school, your rights are part of the answer.

It takes courage and determination to stand up for your rights. But it is worth it and there are people who can support you when you do!

If you have questions about your rights at school, or want help in protecting your rights, call the ACLU to see if we can help. You can reach us at 206.624.2180 or through our Web site: [www.aclu-wa.org](http://www.aclu-wa.org).

***IT IS NEVER TOO SOON TO STAND UP FOR YOUR RIGHTS!***

## HOW TO BE YOUR OWN ADVOCATE

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.

### **First: 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 district. You should find some of those in your student handbook, and you can find more by asking your principal or district office.

But you should not stop there. Laws and policies are constantly

### **Get a Copy of Your School Rules**

If you do not have a copy of your student handbook, ask the principal for a copy. To get copies of the district policies and procedures, you can ask your principal, or the district office. Many school districts post their policies online.

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 call the ACLU to see if we can help.

### **Second: Investigate the Facts**

If something happens that you think is unfair, keep track of the details. The best way to keep it straight is to write it down!

#### **Write it Down!**

*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?

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, keep copies!

### **Third: 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.

#### **Fourth: 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, 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 the school board. Changes in district 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 specific steps you must follow. Look in your handbook and read disciplinary notices carefully so you can be sure you will have a chance to challenge the discipline!

#### **Fifth: Find Your Allies and Work in a Group**

If you see a problem, you are likely not the only one who is 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.

#### **Watch out for Deadlines!**

Sometimes you must act quickly to preserve your rights – especially in school discipline. For example, if you do not request a hearing to challenge a long-term suspension or expulsion within *three days*, you may lose your right to a hearing. Be sure to save all letters and notices from the school. Read them carefully and respond to them in time.

To find out more about your rights in relation to school discipline, check out our **Parents' Guide to Public School Discipline in Washington**, available in the Student/Youth Rights section of our website: [www.aclu-wa.org](http://www.aclu-wa.org), click on Publications.

You can build awareness and support for an issue by:

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



#### **Sixth: 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 can remain calm and reasonable. Always treat school officials with respect, even if you disagree with them. If school administrators tell you no, ask for the reasons behind their decision and try to respond. If that does not change their mind, try going to the next step – usually, 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 are reached.

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. But 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 without any reason to suspect them. But do not be discouraged – just because schools are *allowed* to do something, does not mean that they *have to*!

**IF YOU THINK SOMETHING IS UNFAIR OR UNREASONABLE, SPEAK UP! OTHERS MIGHT AGREE.**

## 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,  
Amend. I

*Every person may freely speak, write and publish on all subjects, being responsible for the abuse of that right.*

Washington State Constitution,  
Article I, Section 5

The First Amendment of the U.S. Constitution and the Washington State Constitution guarantee the freedom of expression for everyone, including you! Although you do not have all the same rights when you are in school as you do when you are in the community, you do have important rights.

**Your right to free speech is protected at school.** Students do not give up their constitutional rights when they walk onto school grounds. That includes your right to free speech. But in some cases, your speech can be restricted at school even if it would be protected if you were

### Express Yourself!

The First Amendment protects your right to express yourself through spoken or written words, on bulletin boards, in student papers, on the Internet or on your t-shirt. It protects your right to participate in peaceful protests or marches. It also protects your right to express yourself through your taste in books, art, music or the clubs you join. The First Amendment protects your right to speak and to receive information, as well as your right not to speak.

off school grounds. In a famous case from 1969, called *Tinker v. Des Moines Independent School District*, 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.

**School administrators and teachers cannot censor you, or prevent you from saying something, just because it is controversial.** Schools might consider some subjects, like war, racism, gay rights, drugs or teen pregnancy to be too controversial for school. But that is not a good reason for censoring you. Whether you want to make a serious comment on a new school rule or the latest national news, the school cannot censor or discipline you for your ideas unless it has a good reason for believing that your expression will cause a substantial disruption or infringe on the rights of others.

Remember, when speech on sensitive topics does stir passionate feelings, the best response is usually more speech – not less!

**There are some limits on the freedom of expression that apply to everyone.** Whether you are in school or not, the First Amendment does not protect speech that is a “*true threat*.” In order to be consid-

### What is the Difference between a Joke and a Threat?

School authorities are sensitive about provocative statements or jokes about violence. They often try to punish students who make such statements. True threats are not protected inside of school or out. But in order to be considered a “true threat,” you must intend that others take your words as a threat. Your words must be so clear and convincing that the person would have a reasonable fear for his or her safety.

ered a “true threat,” you must intend that others take your words as a threat. Your words must be so clear and convincing that the person would have 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 you know, or should have known, that it was untrue when you said or wrote it. The right to free speech 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. Speech is obscene as to minors 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.

### Limits on Vulgar, Lewd or Drug Related Speech

To ensure an educational environment that is civil and law-abiding, schools are allowed to limit students’ use of vulgar or lewd speech on campus. In 1986, a high school student in Washington state was suspended for using sexual innuendo in a speech at a school assembly. The case, called *Bethel School District v. Fraser*, went all the way to the U.S. Supreme Court. The Court said that schools may discipline students for speech that is not obscene but is still vulgar or lewd and used in an inappropriate school setting. In a case from 2007 called *Morse v. Frederick*, a student in Alaska was suspended for holding up a banner at a school-sponsored event that read “Bong Hits 4 Jesus.” The U.S. Supreme Court said that the school could limit the student’s speech because it advocated illegal drug use and did not include any serious comment on social or political issues.

## Distributing Written Materials

You do not need to get permission in advance to bring written materials, including leaflets, newspapers or announcements, into the school building. But, if you want to distribute them, you must follow the school's rules regarding when, where and how you can distribute them.

Any restrictions the school creates must be reasonable and they must apply equally to all non-school student literature. Generally, school rules that allow leafleting in hallways, but not in class, are considered reasonable. Also, schools may require someone to hand out leaflets instead of leaving them in big piles for people to pick up. Some schools will designate one table where students can leave unattended stacks of leaflets.

Remember, if your materials contain speech that would get you into trouble if you said it out loud at school (because it risks creating a real disruption, is vulgar, advocates illegal drug use, or infringes on the rights of others), you can get into the same trouble for distributing it in written form.

### A. Free Speech in Cyberspace

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.

### 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. 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 the law in this area is still evolving. Some courts have said that schools can discipline students for off-campus Internet speech if it has disruptive effects at school.

### B. Student Newspapers

Your right to control the content of newspapers distributed at school depends on whether the newspaper is school-sponsored.

**School Sponsored Newspapers:** In a case from 1988 called *Hazelwood School District v. Kuhlmeier*, the U.S. Supreme Court explained that if a newspaper bears the school's name, uses significant school resources to be published, or is designed by the school to be a learning experience and has a faculty advisor, it is "school-sponsored."

### The ACLU's Work on Internet Speech

The ACLU has helped students stand up for their rights when schools tried to discipline them for off-campus internet speech. You can learn more about the cases and how they turned out in the Student/Youth section of our Web site: [www.aclu-wa.org](http://www.aclu-wa.org).

The school is considered the publisher of school-sponsored materials and has the final say over what can and cannot be published, subject to two limits. First, a decision to remove material from a school-sponsored publication must be related to some *valid educational purpose*. An article cannot be removed from the publication simply because the principal disagrees with the viewpoints it expresses. The same is true for student expression in other school-sponsored activities, like school plays, concerts, or murals. Second, if your school has made a formal decision to operate the paper as an open forum for all student views, then the school gives up its control over the content of the newspaper. Ask your journalism advisor if your school paper has been designated an open forum.

**Underground and Independent Newspapers:** If you publish an unofficial or “underground” newspaper or zine that is not school-sponsored, you have complete control over the contents. And you can distribute it as you can leaflets and books. You do not need to ask permission to bring it into the school building, and the school cannot require you to get approval of the content in advance.

But remember one risk – if your publication contains speech that would get you into trouble if you said it out loud at school (because it risks creating a substantial disruption, is vulgar, advocates illegal drug use, or infringes on the rights of others), you can get into the same trouble for distributing it at school in written form.

### **C. Library Books and Internet Filters**

The First Amendment right to freedom of expression includes the right to receive ideas and information. The First Amendment puts some limits on what schools can do to keep information out of your hands.



In 1982, in a case called *Board of Education v. Pico*, the U.S. Supreme Court said that a school cannot take books out of its library just because it disagrees with the ideas expressed in them. Schools have more authority to control which books are or are not used in the classroom because they have broad control over the curriculum. Before your school removes “controversial” or “inappropriate” materials from your class or your library, you should have an opportunity to object to their removal. Ask for your school district’s policy and procedure for selecting or challenging instructional materials.

**The Internet:** 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. Filters often block too much, including sites that schools feel uncomfortable with, like sites giving teens information about sexual health or sexual identity.

### **Disabling Filters**

If you think your school is blocking information that would be useful to you or other students, ask whether the filter can be disabled. Find out what the school’s policy is on internet use, and let them know your concerns.

### **D. Protests and Demonstrations**

***You do not have to wait until you graduate to organize or participate in protests, rallies or demonstrations!***

You have the freedom to express yourself in groups, with posters, songs and drama. There are limits – you must comply with reasonable school rules regulating the time, place and manner of student speech, including group demonstrations. You could get in trouble for holding a protest at school that substantially disrupts the orderly operation of the school. If you encourage students to miss class, block a hallway, or make a lot of noise while others are studying, it will likely

be considered a disruption. But you should be able to organize a peaceful, orderly protest at lunch, or before or after school. If you are unsure about when and where you can hold a protest or demonstration, check your school district's written policies and rules about students' free speech on school grounds.

Because the law requires you to attend school, the school can discipline you if you skip class to participate in a protest or demonstration. But the school cannot punish you more harshly for missing school to participate in a protest than it would punish students for missing school for any other reason.

### **E. Pledge of Allegiance**

You cannot be forced to take oaths you do not believe. This means that you cannot be punished by your school for refusing to salute the flag, say the Pledge of Allegiance, or rise while others say the Pledge. You also cannot be required to leave the room when others are saluting the flag if you choose not to. You should maintain a respectful silence while others recite the Pledge. You do not have to give your teacher or other school staff a reason for not participating. And you do not need your parent's permission to exercise the right of conscience to refrain from reciting the Pledge.

### **F. Dress Codes**

People sometimes express who they are and what they believe through

#### **Learn More: Your Rights in Relation to Student Walkouts**

Before a school can *suspend* you for missing school, it has to take a number of corrective steps and start with lesser punishments. You should also be given the same right to make up work as any other student who has an unexcused absence for the particular classes you miss. For additional information, see our brochure on **Student Walkouts and Political Speech at School**, available in the Student/Youth Rights section at: [www.aclu-wa.org](http://www.aclu-wa.org), click on Publications

their own personal style. But you do not have complete freedom in choosing the outfits, hairstyles or accessories you wear to school. Courts have typically allowed schools to regulate students' dress and hairstyle. Schools might regulate the length of skirts and shirts, or prohibit clothes with sexual or obscene messages, or "gang-related apparel."

A court is more likely to protect your freedom of expression if your clothes make a political or religious statement, or if the school's rules are so vague that you could not be expected to understand what they mean. No dress code may prohibit students from wearing clothing in observance of their religion.

School boards in Washington can require school uniforms. But if your school decides to require uniforms, it must make sure that students who cannot afford the uniform can still go to school.

#### **What is "Gang-related Apparel?"**

That may depend on where you go to school. The law allows school boards to adopt dress codes that prohibit "gang-related apparel." Before you can be disciplined for wearing it, the school board must notify you and your parents of what clothing and apparel your school board considers "gang-related." If the school's definition is so broad or vague that you do not know what it means, ask the school to clarify it.

Any school rule must be applied fairly and without discrimination. If you think your school is singling out a particular group of students for wearing gang-related apparel, keep track of when it happens and contact the ACLU to see if we can help.

## FREEDOM OF RELIGION

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

U.S. Constitution,  
Amend. I

*Absolute freedom of conscience in all matters of religious sentiment, belief and worship, shall be guaranteed to every individual, and no one shall be molested or disturbed in person or property on account of religion; . . . No public money or property shall be appropriated for or applied to any religious worship, exercise or instruction, or the support of any religious establishment . . .*

Washington State Constitution,  
Article I, Section 11

*All schools maintained or supported wholly or in part by the public funds shall be forever free from sectarian control or influence.*

Washington State Constitution,  
Article IX, Section 4

There are two parts to the freedom of religion.

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 activities.

Public schools must maintain their religious neutrality so that all students of any religion, or no religion, can enjoy freedom of belief.

### A. Free Exercise of Religion

Your right to the free exercise of religion is protected both inside of school and out. When you are in school, you are free to practice your religion individually so long as you do not disrupt educational activities or interfere with the rights of others.

Individual students are free to:

- ✓ pray
- ✓ read from a religious text
- ✓ wear religious symbols
- ✓ discuss their faith
- ✓ invite others to join their religious group

You can pray in a group as long as you are not disruptive. You can form a religious club and are free to meet at school during non-instructional time if the school allows other non-curriculum-related student clubs to meet on campus. You also generally have the right to distribute religious literature on public school campuses. The school can impose rules about when, where and how you can distribute your literature. Any restrictions the school creates must be reasonable and they must apply equally to all non-school student literature.

#### Can I Write about My Religious Beliefs in My English Paper?

If it is relevant to the subject and meets the requirements of the assignment, you have the right to express your religious views during class discussion, as part of a written assignment, or as part of an art project. Your teacher cannot grade you on your religious beliefs, but can grade your performance on scholastic content, such as spelling, grammar, and the degree to which you meet the assignment's objectives.

## B. Government Establishment of Religion

The second part of your freedom of religion comes from the “Establishment Clause” of the First Amendment, which prohibits the government from establishing any religion. That means that the government cannot pass laws that are motivated by a religious purpose, or laws that promote religion. And it cannot become too entangled in religion. Our state constitution goes even farther – it prohibits *any* public funds from being spent to support religion.

**The general rule for schools is that they may not sponsor, facilitate, promote or participate in religious activity or religious beliefs.**

For example, you can be excused from class to participate in religious activities, but teachers should not *encourage* students to do so. Schools can teach *about* religion. They can include readings from religious texts, as long as these are presented objectively as part of a secular (non religious) program, 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.

### 1. Prayer in School, at Graduation and at the Game

School officials may not lead their classes in prayer and may not try to persuade students to participate in prayer or other religious activities. It does not matter whether the prayers are supposedly “nondenominational,” because no single prayer will ever capture the wide range of religious beliefs 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, if the school’s purpose is to encourage prayer, it may not do so by requiring a “moment of silence.”

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.

### 2. Holiday Celebrations and Displays

Schools can celebrate holidays by putting up decorations and displays, but they must be careful not to promote any one religion in particular. Some, but not all, holiday symbols have religious meaning. If a display is mostly non religious with some religious items, it is probably okay. But if the overall message is religious, it would be unconstitutional. For example, a nativity scene or a Menorah by itself would not be permitted, but a display including several items, like a Christmas tree, a Menorah and snowflakes would be okay.

#### Religious Song and Drama

Including a few religious songs in a school concert among mostly non religious songs would likely be okay. On the other hand, practicing all winter for a Christmas concert with primarily religious songs would not. Similarly, schools might include plays about religion in a drama class, but putting on a religious play would probably not be permitted.

### 3. Evolution and Creationism

Schools cannot design curriculum to promote one set of religious views over others. In science class, that means that states cannot forbid schools from teaching evolution. They cannot require schools to teach creationism or “intelligent design” because these are religious concepts about the origins of life on earth. Similarly, states cannot require schools to “balance” the teaching of evolution with creationism. States also cannot require schools to put a “disclaimer” on a biology textbook that advocates creationism as an alternative to evolution.

## STUDENT CLUBS

If your school allows even one non-curriculum-related student group to use school facilities during non instructional time, it must give equal access to *all* student groups, regardless of the focus of the group.

Non-curriculum-related student groups are any groups that are not directly linked to classes offered by the school. Non instructional time includes time before and after class, and during lunchtime. So if your school allows a chess club, cooking club or a Future Farmers of America club, it must also allow a gay/straight alliance club, a Bible study club or an ACLU student club to meet on campus. The school cannot leave it up to a student vote on whether a club can meet on campus.



### The Equal Access Act

A federal law called the Equal Access Act guarantees student clubs “equal access” to school facilities. Courts have said that includes equal access to benefits like space on school bulletin boards, a yearbook picture, and access to school announcements, whenever those benefits are given to other non-curriculum-related clubs.

To protect everyone’s freedom of religion, schools cannot sponsor or participate in religious activities of student clubs. If a student club has a prayer meeting or engages in other religious activity at school, school employees cannot participate.

## EQUAL PROTECTION: FREEDOM FROM DISCRIMINATION

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

U.S. Constitution,  
Amend. XIV, Section 1

*It is the paramount duty of the state to make ample provision for the education of all children residing within its borders, without distinction or preference on account of race, color, caste, or sex.*

Washington State Constitution,  
Article IX, Section 1

**All students have the right to equal protection.** That means you have the right to be free from discrimination at school. In our state, no student may be denied an equal educational opportunity – or discriminated against – because of:

- ✓ race
- ✓ national origin
- ✓ religion
- ✓ economic status
- ✓ sex
- ✓ sexual orientation
- ✓ pregnancy
- ✓ marital status
- ✓ previous arrest
- ✓ previous incarceration or
- ✓ a physical, mental, or sensory handicap.

Unfortunately, discrimination might still occur at your school, and it can come in a variety of forms. It might come up in the context of assigning students to academic opportunities, extracurricular activities or special school programs. It might also appear in the way you are treated by other students or teachers, or in the way you are disciplined.

It takes courage to speak up for your rights, particularly when you feel like you are being discriminated against. If you feel like it is happening to you, keep a diary of what is happening and report it to a teacher, counselor or principal. If the problem is not resolved, call the ACLU to see if we can help.

### **A. Harassment**

Harassment on the basis of gender, sexual orientation, race, color, national origin, disability or religion is a kind of discrimination. It is prohibited by federal and state laws.

Harassment can come in many forms, including:

- ✓ assaults or unwanted touching
- ✓ theft or vandalism
- ✓ threats of bodily injury
- ✓ unwanted sexual advances
- ✓ derogatory comments, slurs, or gestures

The details of harassing conduct will be different in every case. Harassment is illegal when it is so severe, persistent or pervasive that it creates an intimidating or hostile school environment and interferes with your education.

**WHETHER IT IS FROM A TEACHER OR FROM A FELLOW STUDENT, SCHOOLS CANNOT TURN A BLIND EYE TO HARASSMENT.**

### **Title IX and Title VI**

Two of the federal laws that prohibit discrimination are “Title IX,” which prohibits sex discrimination, and “Title VI,” which prohibits discrimination on the basis of race, color or national origin. These laws prohibit discrimination in any educational program that receives money from the federal government. Since public schools get money from the federal government, they must obey Title IX and Title VI. They must protect students from harassment or other discrimination based on sex, race, color or national origin.

Before schools can take steps to stop it, 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.

If you have reported harassment either by a teacher or another student and the school has done nothing, call the ACLU to see if we can help you.

**Harassment and Free Speech:** The definition of harassment is not always clear. If a school’s anti-harassment rule is too broad, it can infringe on your right to free speech. School policies should not keep you from expressing your religious, philosophical or political views even if they might be considered “offensive” by some students. But schools can prohibit harassment when students intentionally intimidate or demean others, even if that harassment occurs partly through speech. For more on this topic, see our brochure, **Preventing Harassment, Protecting Speech**, available on our Web site at: [www.aclu-wa.org](http://www.aclu-wa.org).

### **Find out How to Report Harassment**

Every school is required to have a written procedure for responding to harassment complaints. There should be information posted in your school and also printed in your handbook about how you can report harassment. If you cannot find it, ask a teacher or your principal to give you a copy and explain the process to you.

### **B. Lesbian, Gay, Bisexual, Transgender and Questioning Students**

Lesbian, gay, bisexual, transgender and questioning students have the right to be treated equally at school and to be protected from discrimination. Schools have an obligation to adopt rules against

anti-gay harassment, just as with any other kind of harassment. The school cannot ignore it if you are being harassed on the basis of your sexual orientation or what someone thinks it is.

**It is your choice to be out, or not.** If you are *not* out to your parents or others, the school should respect your right to privacy and not disclose your sexual orientation without your permission. If you have confided in a counselor or teacher and do not want them to tell your parents or other students, let them know that the information is private. They should respect your decision to keep it private.

**If you are out and want to be, you can be!** You have the same right to freedom of expression as other students. Schools may not restrict expression of your ideas and beliefs about sexual orientation and gender identity more than any other student speech at school. You can talk to other students about your sexual orientation and gender identity, and you have the right to form a club on an equal basis with other clubs. (See the section on **Student Clubs** for more information).

### Get Busy. Get Equal.

You can find more information about your rights, and read success stories about other students who stood up for their rights at the “Schools” section of the ACLU LGBT Project’s Get Busy Get Equal Campaign Web site: [www.aclu.org/getequal](http://www.aclu.org/getequal).

Also, if your school allows couples at the prom or other school functions, it should allow same-sex couples. If you are a transgender student, you should be able to wear what you wish, so long as it does not cause substantial or material disruption in the school.

### **C. Discrimination and Disparities in Discipline**

Schools are not allowed to discipline you more harshly or more often than other students just because of your race, sex, national origin, religion or other legally protected characteristic. Schools can

impose different punishments on students depending on relevant factors, such as what you did, whether it was intentional, how serious it was, and whether or not you have been in trouble in the past.

Courts give schools a lot of leeway in deciding whether one student’s misconduct is more severe than another’s, so discrimination can be hard to prove. Still, if you feel like it is happening to you, keep track of what is happening. Talk to a parent or another trusted adult about how to raise the issue, and call the ACLU to see if we can help you.

Sometimes you will find patterns, where a school’s discipline has a harsher or “disparate” impact on a particular group of students. Patterns of disparate impact can be identified by looking at a school’s discipline data. Anyone – including you – can ask for public records from a school, including general discipline data that does not include students’ names or addresses. If disparities are found, schools can try to eliminate them by:

- ✓ reviewing their discipline codes to be sure they are clear and fair
- ✓ providing training to teachers and other school staff on how to impose discipline fairly and consistently
- ✓ clarifying the school’s rules and expectations for all students

For more information about school discipline, and suggestions for responding if you feel you are being discriminated against, see our **Parents’ Guide to Public School Discipline in Washington**, available in the Student/Youth Rights section of our Web site: [www.aclu-wa.org](http://www.aclu-wa.org), click on Publications.

### **D. Gender Discrimination in Athletics**

All students have the right to equal opportunity and treatment in school athletic programs. 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 law requires the school to ensure that boys and girls have an equal opportunity to participate. 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, it may be unfair and possibly discriminatory.

**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 the following comparable benefits regardless of their gender:

- ✓ locker rooms
- ✓ practice and competitive facilities
- ✓ publicity
- ✓ equipment and supplies (i.e., uniforms)
- ✓ transportation
- ✓ coaching and academic tutoring
- ✓ 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. As in any situation, there is strength in numbers.

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 report discrimination. If you cannot find it, ask a teacher or principal to give you a copy and explain the process to you.

If you have reported discrimination in an athletic program and the school has done nothing, call the ACLU to see if we can help you.

## SEXUAL HEALTH AND EDUCATION

**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 Washington state, 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.

**Pregnant students have the same right to an education as other students.** Schools are not allowed to discriminate against pregnant students by limiting their activities when no health concern is involved. For example, a school cannot require pregnant students to provide doctors’ notes to participate in activities unless the same policy applies to all students. School districts can establish special schools or special programs for pregnant students, but they must be voluntary. If you are pregnant, the school cannot require you to take a leave of absence or attend an alternative school. If you do take a leave of absence, the school must allow you to start back up where you left off. You should be able to remain in school while you are parenting a child. Ask your school to help you devise an educational plan that will work for you if you need extra help to catch up or more flexibility in your schedule.

**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 trans-

mitted 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.
- ✓ If you are *14 years old or older*, you are the one with the authority to give consent to release your records relating to HIV or other sexually transmitted diseases. The school may not disclose those records to your parents or others without *your* written consent.

### Remind the School of Your Right to Privacy

If you decide to disclose information about your medical status to the school, it is a good idea to tell the school personnel that the information cannot be disclosed to others without your specific written consent. Making a specific request to keep the information private may help prevent the school from unintentionally sharing the information.

**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 in its schools.** 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.

## SCHOOL SEARCHES AND POLICE IN SCHOOLS

*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,  
Amend. IV

*No person shall be disturbed in his private affairs, or his home invaded, without authority of law.*

Washington State Constitution,  
Article I, Section 7

Your privacy is protected by the Washington State Constitution and by the Fourth Amendment of the U.S. Constitution, which prohibits “unreasonable searches and seizures.” The law on searches can be complicated for young people. Your rights are different depending on whether you are in school or out, and whether the police or a school official wants to search you.

**Outside of School:** Generally, for youth or adults, police officers must have a search warrant based on probable cause before they can search you or your possessions.

**There are some exceptions to the general requirement of a warrant and probable cause that apply to everyone.** For example, you might be searched without a warrant in the following cases:

- **Reasonable Suspicion:** A police officer can stop you and ask questions if the officer has a “reasonable suspicion” that you are breaking the law. Reasonable suspicion is less than probable cause, but it still requires some facts, and not a hunch, rumor or curiosity. If the officer asks you questions, you have the right to refuse to answer. You should politely assert this right. You

also can be “frisked” for a dangerous weapon, but only if the officer reasonably believes that he or she is in danger. A frisk is a pat-down of the outer surface of your clothing.

- **Arrest:** The police can search you without a warrant if you are arrested.
- **Automobiles:** In certain cases, your car can also be searched without a warrant.
- **Consent:** Police officers can also search you without probable cause or a warrant if you voluntarily consent to a search. *You are never required to consent to a search.* You generally should not consent, but you may be searched anyway. You should make clear that you do not consent, but you should not physically resist the officer.

### Keep a “Bust Card” in Your Pocket

For a wallet-sized guide on what to do if you are stopped by the police, call the ACLU and ask for copies of our “Bust Card,” or look for the printable version called **What to Do if You Are Stopped By Police**, a publication available in the Resource section of our website at: [www.aclu-wa.org](http://www.aclu-wa.org).

### What Is a “Warrant” Based On “Probable Cause?”

A warrant is written permission issued by a judge for police to search a person or location for evidence of a crime. Generally, warrants must be obtained by police before they conduct a search, and police can only obtain them if they show the judge that they have “probable cause.”

Probable cause means that the police have enough facts to support a reasonable belief that they will find some evidence of a crime if they search you or your belongings.

## A. School Searches

Different rules apply when you are at school, and the rules are different depending on who is doing the searching – school officials or law enforcement.

**Reasonable Suspicion:** In a case called *New Jersey v. T.L.O.*, the U.S. Supreme Court said that *school officials* may search a student or a student’s property without a warrant and without probable cause. The Court believed that schools needed more flexibility in maintaining order at school. Students are still protected from “unreasonable searches” at school. But the Court said that a search by a school official is reasonable so long as the school official has *reasonable suspicion* that the search might uncover evidence that you violated a school rule.



Reasonable suspicion might be based on a school official overhearing, seeing or smelling something first-hand, or a tip from a reliable source. The school officials must also be reasonable in the way they search you, based on your age and what they are searching for. Just like with the police, if you *voluntarily consent* to a search, the school does not need even reasonable suspicion to justify the search. Remember, you never have to consent to a search.

### CAUTION !

Anything found by school administrators in a lawful search can be turned over to the police and may be used against you in a criminal proceeding or a school discipline proceeding.

**Individualized Suspicion:** If the 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. For example, if a school official has 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.

**School Lockers:** School lockers are an exception even to the lower standard of constitutional protection from unreasonable searches that applies in schools generally. Washington state law says that school lockers are school property that can be searched at any time, with or without reasonable suspicion. But the right to search your locker does *not* extend to closed bags or purses inside your locker. Those may only be searched if a school official has a reasonable suspicion that the search might uncover evidence that you violated a school rule.

**Police Searches at School:** If law enforcement officers want to conduct a search at school, they generally must follow the same restrictions that apply outside of school – which usually means getting a warrant.

### No Strip Searches Allowed!

Washington state law prohibits strip searches in schools under any circumstances. A strip search includes any search requiring you to rearrange your clothing to expose your undergarments.

### What about School Resource Officers?

It has become increasingly common to have police officers working full- or part-time in schools, often as “School Resource Officers.” Whether an officer’s title is “School Resource Officer” or “Police Officer,” law enforcement officers serve a different function than school administrators.

If a law enforcement officer, including a School Resource Officer, wants to search you or your belongings, you can ask if they have a warrant. You can always tell them that you do not consent to the search. Remember to do so politely but firmly, and never physically resist an officer.

If you have questions about whether you have been improperly searched at school, you can call the ACLU to see if we can help.

### B. Drug Tests and Dog Sniffs

Generally, the Fourth Amendment protects people from “suspicionless searches.” A suspicionless search is one conducted without any reason to suspect evidence of a crime. Doing drug testing of all students, or all athletes, would mean conducting suspicionless searches. But, in 2002, in a case called *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 to submit to drug-testing.

Still, the Washington State Constitution may prohibit suspicionless drug tests in Washington public schools. The Washington Supreme Court has said that a school violated students’ rights by requiring all students to consent to have their bags searched for alcohol in order to go on a school trip. Because that search was done without individualized suspicion, it violated our state constitution. The Washington Supreme Court has not yet decided whether the kind of drug test-

ing approved by the U.S. Supreme Court would be prohibited by our state constitution. Because states are free to give their citizens greater protection, students in Washington could be protected from suspicionless drug testing.

**Dog Sniffs:** Some schools have turned to dogs to try to sniff out drugs and weapons. Like the law on drug testing, the law on dog sniffs is not yet clear. Some courts have said that dog sniffs of lockers, classrooms, students’ bags or other things are okay, even without any particular suspicion. But courts have said suspicionless dog sniffs of students are not allowed. Students in Washington might be protected from dog sniffs conducted without any reasonable suspicion, and are almost certainly protected from dogs sniffing the students.

### C. Police Interrogation

*No person . . . shall be compelled in any criminal case to be a witness against himself. . .*

U.S. Constitution,  
Amend. V.

*No person shall be compelled in any criminal case to give evidence against himself. . .*

Washington State Constitution,  
Article I, Section 9

### Learn More about Student Drug Testing and Drug Sniffing Dogs

The ACLU of Washington has helped students stand up for their right not to be searched without any reasonable suspicion at school. You can read about those cases and find both practical and legal reasons why suspicionless drug testing and drug sniffing dogs do not make sense at school. Look in the Student/Youth Rights section of our Web site: [www.aclu-wa.org](http://www.aclu-wa.org).

## 1. Your Rights off School Grounds

You have the right to remain silent when you are questioned by the police.

The Fifth Amendment of the U.S. Constitution protects the right against self incrimination. That means that you cannot be required by the government at any time to make statements that might implicate you in any crime. It means that you cannot be coerced into a confession by police, and you cannot be forced to testify against yourself in any criminal proceeding.

In the famous case of *Miranda v. Arizona*, the U.S. Supreme Court said that in order to protect that right, before a police officer can interrogate you when you are in police custody, the officer must read you your “Miranda rights”:

- You have the right to remain silent
- Anything you say can be used against you in a court of law
- You have the right to an attorney
- If you cannot afford an attorney, one will be appointed for you at no charge

**If you are questioned by a police officer, the most careful course of action is not to say anything until you have talked to a lawyer.**

### Can Students Give up Their Right to Remain Silent on Their Own?

It depends. Children under age 12 are legally unable to waive some of their rights, including their right to remain silent, unless a parent or guardian consents. Whether youth who are 12 or older have voluntarily waived their rights is determined by the “totality of the circumstances.” One of those circumstances may be whether or not you had the chance to talk to a lawyer or your parent before waiving your rights.

If an officer begins questioning you, you can ask if you are free to leave. If the officer says yes, you should take the opportunity to go to a private place to contact a parent or lawyer before continuing to talk to the officer. If the officer says no, you should not answer any more questions without speaking to a lawyer. Remember, police “questioning” is not always done through direct questions. It can include anything that is designed to prompt you to make comments or statements about the incident.

**You should not give an officer any explanations, excuses or stories.** You can explain yourself later, if necessary, based on what you and your lawyer decide is best. If you continue to speak, you may give up some very important rights. To avoid trouble, you can give the officer your name and address, then tell the officer that you want to speak with a lawyer right away and refuse to answer any further questions.

**When you ask for a lawyer, you must be crystal clear:** say, “I want to talk to a lawyer,” *not* “I might want to talk to a lawyer.” If you are afraid to say no to an officer, you can tell the officer that you were told not to talk to the police without a parent or a lawyer present.

### What if I ask to call my parents and the officer says no?

**First, remember that you always have the right to remain silent.** A police officer might refuse to let you call your parents. That does not mean you have to talk to the officer. If you want to talk to your parent, a lawyer or other trusted adult before you talk to a police officer, you can. Tell the officer you want to talk to your parent or a lawyer first, and that you are invoking your right to remain silent. If the officer continues to ask you questions, ask to talk with a lawyer. You can say that you have been advised not to answer questions without your parent or lawyer present.

If a police officer asks you to sign a written form giving up your rights, you do not have to sign it!

## 2. Your Rights on School Grounds

You have the right to remain silent when you are questioned by the police.

Generally, you should not have to worry about being questioned by police at school. School is a place for learning, not law enforcement. So for the most part, police work should take place off school grounds. If you violate a school rule – even if it might also be a minor criminal violation – the investigation and punishment can be handled by school officials. School officials are not required to call the police for every potential violation.

If the police need to question you, and there is no emergency, they should be able to do it outside of school hours at a police precinct or other location, and at a time when you can have a lawyer and/or a parent or guardian present.

Sometimes it is necessary to call for police help at school when emergencies arise. If questioning by police does occur at school:

### Check out your school's policy on police in schools!

Your school should have a clear policy, so that school officials will know what to do when it is necessary for a police officer to question a student at school. Ask if your school has a written policy and procedure on relations with law enforcement. If the policy does not require a reasonable effort to contact your parents, ask your school to change it!

Many schools have adopted policies requiring school principals to contact parents before students of *any age* are questioned by police. No student should have to face the critical decision of whether or not to give up their constitutional rights alone. If you want help changing your school's policy, you can call the ACLU.

- ✓ The principal or another school official should be present
- ✓ No interrogation should take place in front of other students
- ✓ Your parent or guardian should be contacted as soon as possible, preferably before interrogation, and immediately if you are arrested.

Any interrogation of a student must also comply with the legal requirements of an interrogation of an adult. That is, once students are in police custody, they must be told their Miranda rights.

**REMEMBER, YOU HAVE THE RIGHT TO REMAIN SILENT. IF A POLICE OFFICER ASKS YOU TO SIGN A FORM GIVING UP YOUR RIGHTS, YOU DO NOT HAVE TO SIGN IT!**

**Questioning by School Officials:** If you are questioned by a school official, rather than by police, the school official will probably not inform you of your Miranda rights. They are not required to do so, even if they intend to turn you over to the police.

### CAUTION!

**Statements made to a school official can be turned over to the police. Those statements may be used against you in a criminal proceeding or a school discipline proceeding.**

If a principal or other school administrator is asking you about a suspected school rule violation that could be a crime, you should ask them to call your parent or guardian first. Consider speaking to a lawyer before you make any statements about the incident. The principal might be annoyed by the delay, but you can explain that you would like to get your parent's or another trusted adult's advice about such an important matter.

## STUDENT RECORDS: PRIVACY AND ACCESS

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 and adult or emancipated students access to student records. It also prevents the release of those records to most third parties without written consent. Washington state laws provide additional privacy protections for some student health records.

**Your school records are private, to a degree.** Generally, the school must get written consent from your parent or you (if you are over 18 or legally emancipated) before it can disclose your records to anyone. In certain cases, schools can disclose your records without prior consent, including:

- to school officials who have "legitimate educational interests"
- to another school, if you transfer
- in compliance with a court order, and
- financial records can be given to financial aid personnel

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. Your school should also give you information about how you or your parent can opt out of having your directory information released without prior consent.

Directory information may include your:

- |                    |  |   |
|--------------------|--|---|
| ✓ name             | ✓ participation in activities and sports         | ✓ dates of attendance                           |
| ✓ address          | ✓ weight and height of members of athletic teams | ✓ grade level                                   |
| ✓ telephone number | ✓ honors and awards received                     | ✓ most recent educational institution attended. |
| ✓ e-mail address   |  |   |
| ✓ photo            |  |   |
| ✓ birth date       |  |   |
| ✓ degrees          |  |   |

There is a higher standard of privacy for records relating to HIV status or other sexually transmitted diseases, drug or alcohol treatment, mental health treatment, and family planning or abortion.

**You and your parents have the right to see most of your student records.** If you or your parents request access to your records, the school must allow you to review them within five school business days after it receives your request, unless it gives you a written explanation for why it cannot. In no case can the school delay beyond 45 days after the request is made. Certain records may be withheld, including notes from a teacher not shown to anyone except a substitute teacher, records of students' post-graduate activities, personnel records of school employees, and the records of

### Private

Some records may not be released – to your parents or others – without *your* written consent:

- ▶ Only you may authorize release of **records concerning birth control or abortion**
- ▶ If you are 13 or older, only you may authorize release of **drug, alcohol or mental health treatment records**
- ▶ If you are 14 or older, only you may authorize release of **records relating to HIV or other sexually transmitted diseases.**

a school where a student applied but never attended. Adult or emancipated students may be denied access to psychiatric records, recommendation letters, and parents' financial records.

**Many school records are “public records,” and you have the right to see them if you ask for them.** Washington's Public Records Act gives you the right to review the records of our state government agencies, including schools. If you want to learn more about how your school or district works, you can ask to see its records. Public records include lesson plans, school board meeting minutes, and school data on discipline, attendance or academic achievement with students' personally identifying information taken out.

If you request public records, schools must respond to you within five days, either by giving you what you have requested, by explaining why they cannot, or by giving you a reasonable estimate of when they can provide the documents. It is best to put your request in writing and to explain that you are making a request for public records so that you can be sure the school will respond as required. You can learn more about how to request public records from our brochure, **How to Get Government Records**, available on our Web site at: [www.aclu-wa.org](http://www.aclu-wa.org).

## Correcting the Record

### What if there is a mistake or misleading information in my records?

You and your parents have the right to ask that the records be changed. You should put your request in writing. If the school disagrees with you, you have the right to request a hearing to show why you think they should change the record. Even if you lose at the hearing, you have the right to include a statement in the records explaining why you believe the information is wrong. The school is required to include your statement every time it releases your records to someone else.

## Military Recruiters' Access to Your Records

A section of the federal law called the No Child Left Behind Act gives military recruiters access to the names, addresses and telephone numbers of high school students. Schools must also give military recruiters the same access to school campus that they give to colleges or prospective employers.

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) advance notice of the right to opt out and information about how and when to do it. Schools should allow you to opt out of supplying information to the military without requiring you to opt out of supplying the same information to colleges or job recruiters.

If you have questions about military recruiters' access to student information and school campuses, or about equal access for peace groups, see our brochure, **Military Recruitment at High Schools**, available in the Student/Youth Rights section of our Web site at: [www.aclu-wa.org](http://www.aclu-wa.org), click on Other.

## THE RIGHT TO A FREE PUBLIC EDUCATION

*It is the paramount duty of the state to make ample provision for the education of all children residing within its borders, without distinction or preference on account of race, color, caste, or sex.*

Washington State Constitution,  
Article IX, Section 1

Every child in Washington state has the right to a free public education. In fact, the Washington State Constitution says that providing an education is the “paramount duty” of the state. That means it is *the most important* duty of our state.

The Washington Supreme Court said in 1978 that the constitution guarantees children in our state a “basic education.” In that case, called *Seattle School District No. 1 v. State of Washington*, the court said that the Legislature must define what a basic education is, and then fund it. At a minimum, the court said that the basic education provided by the state must:

- ✓ prepare you to participate intelligently and effectively in our open political system
- ✓ prepare you to exercise your First Amendment freedoms both as a source and receiver of information
- ✓ prepare you to be able to inquire, to study, to evaluate and to gain maturity and understanding

It is up to the Legislature to provide more specific guidelines about what kind of education schools must provide. The Legislature has said that each school must provide opportunities for every student to develop essential knowledge and skills. Schools must provide a certain number of days of school per year, and a certain number of

teachers per student. Each school must also provide instruction in the “essential academic learning requirements,” covering several subjects, including: reading, math, social studies, writing, arts and science. Schools can also provide alternative education programs, work skills and vocational education for students in grades 9-12. A basic education includes special education services for students with disabilities and bilingual education for students learning English.

### A. Who Can Enroll and What Are the Requirements

Children and youth between the ages of 5 and 21 have the right to attend a public school in the district where they live. Each district is responsible for deciding which school students will attend within that district.

**Schools can generally ask for certain kinds of documentation before they enroll a new student, like proof of age and residency.** Schools can also ask you to prove that you have been immunized against certain diseases. You can be excused from the requirement if a doctor signs a statement saying that it would be harmful to you, or if a parent signs a statement that it goes against the parent’s religious, philosophical, or personal beliefs.

#### Enrolling Homeless Students

The documentation requirements are different for homeless students, including students who are living with friends or family due to loss of housing, or are awaiting foster care placement. A federal law requires schools to enroll homeless students *immediately*, even if the student does not have the documents typically required for enrollment. The school can help you gather the necessary records – after enrolling you! Every school is required have a person working as a liaison with homeless students and their families whom you can contact for additional information about your rights.

All children living in the U.S. – whether they are U.S. citizens or not – have an equal 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 in order 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. School personnel have no legal obligation to enforce U.S. immigration laws. Schools should not do things that would discourage students or their parents from enrolling in schools, like asking for copies of documents to prove citizenship or asking questions about immigration or citizenship status.



### ***B. Compulsory Attendance: The Becca Bill***

You have a constitutionally guaranteed right to an education. You also have a legal obligation to go to school. A state law, called the “Becca Bill,” requires you to go to school regularly if you are between the ages of 8 and 18, and it requires your parents to make sure you are going. There are just a few exceptions for students who are in private school, are home-schooled, have a disability that prevents attendance, or are 16 and either have regular employment and their parents’ permission, or have already met graduation requirements.

If you are under 18 years old, and you are found outside of school during school hours without a valid excuse, you can be picked up by any school district official or police officer and taken home or back to school.

If you miss school without a valid excuse, the school is required to take a number of steps to help make sure you get to school regularly. The school is required to notify your parent or guardian of your absences. It is also required to work with you to figure out if there are problems at school or at home that are making it difficult to get to school. Then it must help try to resolve those problems.

If you miss a certain number of days without an excuse – either five or seven in a month or 10 in a year – you can be referred to juvenile court or to a community truancy board. Once you have been referred to court, the court can enter an order directing you to go to school.

**Attendance Agreements and Court Orders:** Often a school district representative will ask you and your parent to agree to an order that will later be signed by the judge. You are not required to agree to an order proposed by the school if you do not want to. You can require the school to present all of its evidence to the judge, giving you an opportunity to respond. Or you can negotiate with the school to make sure the terms of the order are fair and reasonable. You can ask

### **CAUTION!**

**If you violate a truancy court order, you can be sent to juvenile detention.**

If there is an order directing you to go to school (either one you agree to with the school district, or one issued directly by a judge), and then you intentionally violate that order – for example, by missing more school – you can be “held in contempt of court.” Before you can be held in contempt, you have the right to have an attorney appointed for you. **If you are found in contempt, you can face severe consequences, including time in juvenile detention.**

the school to agree to take steps to help solve school-related problems and to write that agreement into the order, too. Be sure you do not sign an agreement that you will not be able live up to.

To learn more about your rights in the truancy process, read our **Parents' Guide to Truancy in Washington**, available in the Student/Youth section of our Web site at: [www.aclu-wa.org](http://www.aclu-wa.org), click on Publications.

**Home Schooling.** Washington law gives your parents the option to teach you at home. The laws relating to home schooling are meant to be flexible, but there are some minimum requirements. For example, home schooling must cover all the basic skills taught in public school. The parent who teaches at home must be supervised by a person with a teaching certificate, unless the parent has received some college education, has taken a course in how to conduct home schooling, or has been deemed qualified by the local school superintendent. Your parents must make sure that you either take a standardized achievement test or have a certified person provide a written assessment of your academic progress each year. If you are not making reasonable progress, your parent is required to make a good faith effort to remedy any deficiency. Decisions relating to philosophy or doctrine, selection of books, teaching materials and curriculum are left to your parent.

### **C. Special Education Services**

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, the "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 for students with disabilities, tailored to their particular needs. To the extent prac-

tical, schools must provide services that allow students with disabilities to learn in the regular classroom alongside their peers.

**Students with disabilities have various additional rights relating to school discipline, services and accommodations.** If you are receiving special education services, or if you feel that you need them because of a disability, we encourage you to seek out additional information about your rights. For more information about the rights of students with disabilities, see **TeamChild's Education Advocacy Manual**, available at their Web site: <http://teamchild.org/resources.html>.

### **D. Bilingual Education**

**Every student has the right to an equal educational opportunity, including students whose 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. Generally, schools should provide transitional bilingual instruction, meaning instruction where concepts are introduced in a student's primary language and reinforced in English. Students are then tested in English. Whatever program the school provides, it should make it possible for you to keep learning in other school subjects, like math, history and science, while you learn English.

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

## English as a Second Language

Is it okay if the only choice for English language learners is an “English as a Second Language” (“ESL”) class?

It depends. Schools should provide transitional bilingual programs with teachers that teach in both English and the students’ primary language, like Spanish, Vietnamese or Somali. Schools in Washington can teach students English through an alternative program, like ESL, only if they meet one or more of the following conditions:

- ▶ The district cannot get the necessary bilingual instructional materials
- ▶ The district’s bilingual instruction program is temporarily full because of an unexpected increase in the number of eligible students
- ▶ English language learners are too spread out through grade levels or schools or
- ▶ The district cannot get enough teachers trained in bilingual education and sufficiently skilled in the students’ primary language

If you or your parents have questions about whether you can get information in your primary language, call the school or talk to one of your teachers. Ask what is available in your language. If you are having trouble getting translations or interpreters for school meetings, call the ACLU to see if we can help.

## SCHOOL DISCIPLINE AND GRIEVANCE PROCEDURES

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

U.S. Constitution,  
Amend. XIV, Section 1

*No person shall be deprived of life, liberty, or property, without due process of law.*

Washington State Constitution,  
Article I, Section 3

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. They must also respect your fundamental rights, including your rights to free speech and freedom of religion.

**Before the school can kick you out or discipline you for violating its rules, you have the right to “due process,” or fair procedures.**

That means, except in emergencies, before a school can exclude you from class, or suspend or expel you from school, you have a right to know what you are accused of doing and what rule you are accused of breaking. You also have the right to an opportunity to tell your side of the story. When the sanctions are more severe, such as long-term suspensions or expulsions, you have a right to a more formal hearing process where you can present your case and challenge the sanction the school wants to impose.

## Learn More

For detailed information about your rights relating to school discipline and the processes you can use to challenge disciplinary sanctions, please see our **Parents' Guide to Public School Discipline in Washington**, available in the Student/Youth Rights section of our Web site: [www.aclu-wa.org](http://www.aclu-wa.org).

Remember, the deadlines for requesting a hearing and preserving your right to challenge certain disciplinary sanctions are short – just three days for long-term suspensions and expulsions, and 10 days for emergency expulsions – so be aware of deadlines!

----

When you know your rights, you can speak up when they are being violated.

If you have questions about your rights at school, or want help in protecting your rights, call the ACLU to see if we can help.

**It is never too soon to stand up for your rights!**

Portions adapted from:  
*Students' Rights Guide*, ACLU of Northern California,  
*Know Your Rights Manual*, ACLU of Pennsylvania, and  
*Know Your Rights: A Handbook for Public School Students in Florida*, ACLU of Florida

The American Civil Liberties Union of Washington Foundation is the legal, research, and educational arm of the American Civil Liberties Union of Washington, a nonprofit, nonpartisan membership organization devoted to protecting and extending the civil liberties of all people in Washington.

---

**AMERICAN CIVIL LIBERTIES UNION OF WASHINGTON FOUNDATION**

705 2ND AVENUE, 3RD FL., SEATTLE, WA 98104

[WWW.ACLU-WA.ORG](http://WWW.ACLU-WA.ORG)

6/2007