



★ KNOW ★  
— YOUR —  
RIGHTS



A Guide for Public School Students  
in Mississippi



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# What is the ACLU?

## 50 Years of Defending Freedom

The American Civil Liberties Union is freedom's watchdog, working daily in the courts, legislatures and communities to defend individual rights and personal freedoms guaranteed by the Constitution and the Bill of Rights. The ACLU was founded in 1920.

The Mississippi affiliate of the ACLU was founded in 1969 in the midst of the Civil Rights Movement. At that time, Civil Rights workers were being beaten, arrested and killed for demonstrating against unjust laws and institutionalized discrimination. Basic Constitutional rights were being violated daily, from the right to vote, to the right to speak out against one's government without arrest, to the right of equal treatment under the law.

Since our founding, the ACLU of Mississippi has grown in numbers and strength, but we continue to hold true to our founding mission: promoting, defending, and extending civil liberties to all Mississippians.

We use litigation, legislation, and advocacy work to accomplish our goals in three main areas:

### Our Areas:



#### Criminal Justice Reform

We promote criminal justice reform by working to reduce Mississippi's prison population and protect the rights guaranteed to the accused, defendants, and prisoners.



#### Equality for All

All citizens deserve to be treated equally regardless of race, ethnicity, sex, gender identity, sexual orientation, national origin, or disability. We are working to extend equality to all Mississippians.



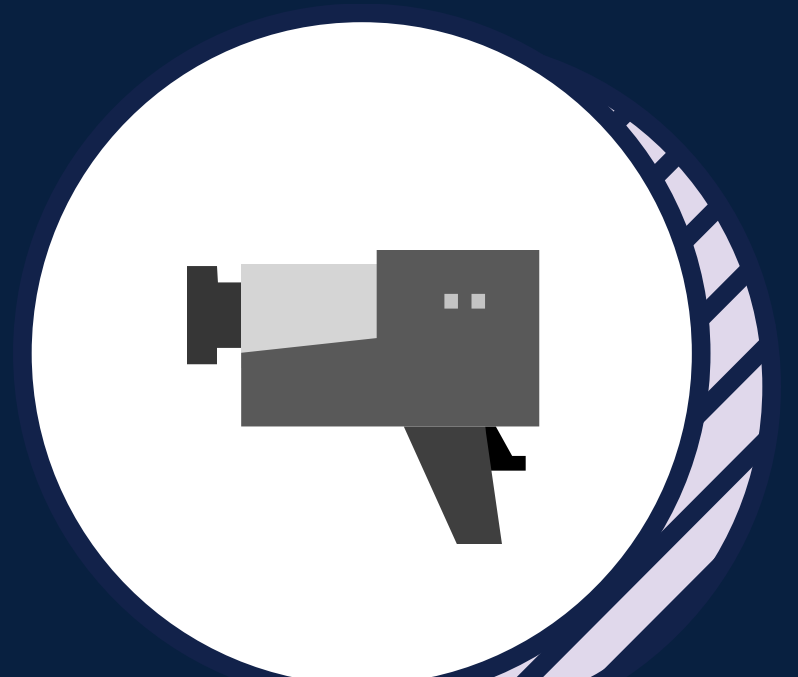
#### Educational Opportunities

Mississippi ranked last in education attainment in the last census and among the nation's worst when it comes to removing children from the classroom and shifting them into the school to prison pipeline.



#### Voter Rights

Voting is the cornerstone of democracy. It is the fundamental right upon which all of our civil liberties rest. A strong and healthy democracy must include the voices of all citizens.



#### Governmental Transparency & Accountability

Surveillance has been used by governments throughout history to suppress free speech and intimate citizens. The Fourth Amendment of the United States Constitution guarantees Americans' right to privacy, equal protection under the law, and due process.



# About this booklet:

This booklet is broadly about rights in a public school setting. However, many of these rights will still be applicable if you attend private or charter schools. School officials have the obligation to create a safe environment conducive to student learning. Because of this obligation, students' rights are not entirely the same as the rights they would have out of school in certain circumstances.

If you are unsure if the rights in this booklet are applicable to your situation, please contact the ACLU of Mississippi.

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## What to do if you think your rights have been violated:

### Organize

Students have more power than they often realize. There are many things that students can do if their school is violating their rights or those of other students. It is important to speak up in an organized, responsible, and well-thought-out way. You and your community have the power to bring about change in your schools. Here are some ideas to empower yourself and fellow students:

- Read a copy of your school's student handbook along with the Bill of Rights. Remember that some injustices are legal; therefore, you may have to approach some issues through community organizing rather than the courts.
- Enlist the help of sympathetic teachers and parents to advise you on how to address the injustice that you are facing.
- Organize an off-campus meeting to discuss how the school is violating your rights and what changes are needed. Design a plan, which may include actions such as writing a complaint letter to the school board and school administration, sending letters to parents, or distributing flyers to alert other students to the problem.
- Attend school board meetings and speak at those meetings. Meet and lobby your school board members for the desired change.
- Write letters to the editors of your local newspapers to raise awareness in the community about the school conditions. Hold a news conference and invite the media to air your grievances about school conditions.
- As soon as you turn 18, register to vote. You can organize a voting registration drive at your school to register students and community members. Exercising your constitutional right to vote is a great way to let your voice be heard and make sure those elected are representing your best interests.

### File a Complaint

The ACLU of Mississippi is headquartered in Jackson but works throughout the entire state. The easiest way to file a complaint is online. Visit [www.aclu-ms.org](http://www.aclu-ms.org), click "Get Help," and complete the intake form. If you would like to request a complaint form by mail, call (601) 354-3408 or write to:

ACLU of Mississippi - Complaint Form Request  
P.O. Box 2242  
Jackson, MS 39225



# The First Amendment

Your First Amendment rights are the cornerstone of our democracy. However, some limits may be placed on speech and expression in schools to ensure an environment that is conducive to learning.

## Your Freedom of Speech

- You have the right to express your opinions in school, but there are some limits.
- School officials can limit expression that threatens immediate harm to the welfare of the school or community, encourages unlawful activity, advocates illegal drug use, uses profanity or swear words, or is vulgar.
- School officials can limit your expression to prevent major disruptions to classes and school activities. The law says students cannot “substantially and materially” interfere with school activities.
- You cannot be required to say the Pledge of Allegiance.



## First Amendment of the Bill of Rights

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

**My history teacher gave our class an assignment to write a paper on a political issue we believe is important. After I wrote a paper explaining why I think gay marriage should be legal, my teacher gave me an F because she said I picked an inappropriate topic. Shouldn't I be allowed to express my opinion?**

Yes. As long as your assignment meets all the requirements set out by your teacher, you cannot be penalized for choosing a controversial topic or for the position you take on a topic. But you do not have a right to speak out in class about something that is not related to the course topic.

**Can a teacher force me to say the Pledge of Allegiance, stand up while others say it, or leave the room if I don't participate?**

No. You can't be forced to say the Pledge of Allegiance, salute the flag, sing the national anthem, or stand or leave the room while others do so. You can be punished only if you make it hard for other students to say the Pledge or sing the national anthem.

**I was given detention for making a speech at a school assembly in which I said some things that had a sexual meaning. Can the principal do that?**

Yes. The school can punish you for making sexually suggestive remarks. Students can be prohibited from using lewd, profane, or offensive language at school assemblies and elsewhere around the school.

**A teacher overheard me talking about wanting to kill my ex-girlfriend's new boyfriend. I was just joking, but I was suspended from school for a week. Can the school do that?**

Yes. School officials take threats of violence very seriously. If they believe that you intended to carry out the threat, they can punish you in order to protect other students

## Your Freedom of Expression

- School officials are allowed to set dress codes or require school uniforms, with exceptions.
- You can be prevented from wearing clothing with messages that are lewd, indecent, promote drug use, disrupt the educational process, or cause a health or safety risk.
- If the message on clothing is religious or political (like a protest against something in the school), it is less likely that the school can legally block you from wearing it.
- School officials must return clothing taken from students.



### Can school uniform policies be mandatory for all students?

Not always. Mississippi law allows school districts to require uniforms but they must have an "opt-out" policy that allows families with religious objections to clothing to find alternative uniform standards. In addition, schools districts must make allowances for families who cannot afford uniforms in order to keep their students in schools.

### Do I have the right to wear armbands or buttons expressing political opinions, including ones about my school or community?

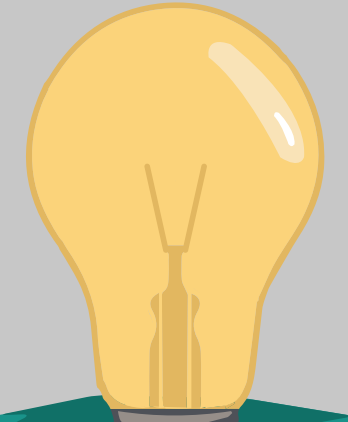
Yes, as long as the armbands or buttons do not cause a material and substantial disruption to the school or contain lewd or vulgar language.

### Students were told that they could not wear hoodies, black trench coats, baggy pants, any kind of head gear, or have visible body piercings or tattoos. The school says it's to protect our safety. Can they do that?

You do have a right to express yourself in your dress, but school officials can stop you from wearing certain items for safety reasons. For example, you can be required to remove hoods or hats while in school unless you have a religious or medical reason for wearing them. And the school can ban open-toed shoes (no flip-flops!). Courts are not likely to overturn a school dress code unless it discriminates on the basis of your religious or political views.

### My principal says students cannot wear a red or blue bandana because they are gang symbols. But if I'm not in a gang, why can't I wear one?

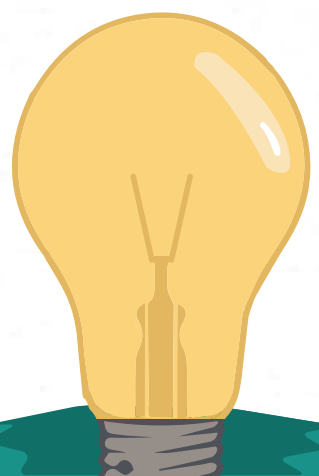
Your school can stop students from wearing clothing associated with gangs in order to prevent violence. But schools cannot prohibit students from wearing religious symbols that are also associated with gangs unless there is evidence that allowing students to wear a particular religious symbol would seriously disrupt school activities.



FAQs

## Your Freedom of Religion

- Students have the right to practice their religion in school, but school officials cannot force students to be religious.
- School-sponsored events, such as sports, classroom activities, or graduation ceremonies, cannot promote religion or include prayer. However, the First Amendment gives you the right to pray individually or in groups or to discuss religious views with your peers, as long as it does not disrupt an educational activity.
- Religious theories cannot be taught as science.
- Students are allowed to practice religion on their own if it does not disrupt school operations.
- Students are allowed to organize religious groups as long as the school allows other non-curricular groups to meet.



FAQs

### Our high school is planning to have a rabbi or priest say a prayer at the graduation ceremony. Is that allowed?

No. Prayers by clergy or anyone else at public school graduations are unconstitutional. Graduations are school-sponsored events and public schools can't include prayers in their program.

### Can a teacher lead my class in prayer, even if it is voluntary?

No. Public school teachers cannot lead classes in prayer or Bible readings. Even non-denominational (not from any particular religion) prayer is unconstitutional. It doesn't make it okay just because the teacher says you don't have to participate.

### I like to sit by myself during lunch and pray or read the Bible. Is this okay?

Yes. During free time at school you can pray privately, read the Bible or other holy books, wear clothing that expresses your religious beliefs or talk about religion with your friends. But you can't disrupt school activities or violate other students' rights.

### Can the school district make us take a Bible class?

No. Public school officials can't encourage or promote any religious beliefs as part of the curriculum. A Bible class created to teach students Christian values would be promoting a government version of Christianity in a school attended by students who may have many different Christian and non-Christian perspectives.

### Our social studies class is learning about religions from around the world. Some of our class readings are from the Torah, the Qur'an, and the New Testament. Is that okay?

Yes. You can study about religion at school, including religion's influence on history, literature and culture, for example. But your readings and class time can't be used to promote religion, teach that one religion is better than another one, or to insult any religion.

### Can sex education classes be based on religious principles?

No. Mississippi law requires that any course containing sex education offered in public schools include instruction about abstinence education. However, public schools cannot include religious beliefs in the instruction of sexual education or question students about their religious and moral beliefs. The school board may authorize the teaching of sex education without abstinence education by an affirmative vote of the majority of the board members.



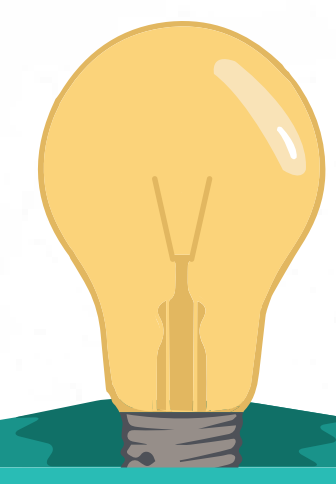
# Your Rights With Law Enforcement

The last few decades have seen an increase in the use of policing-type methods in schools. While schools have a constitutional obligation to ensure a safe learning environment, it is important to know your rights with these school officials and to make sure your rights are not violated.



## The Right to Privacy in Schools

- School officials, including most school security, are not considered regular police.
- School Resource Officers (SROs) have more authority over day-to-day matters in schools than regular police. SROs are police officers at all times, even when they perform other tasks in schools.
- The law restricts when and how searches can be conducted in schools.
- School officials don't need probable cause or a warrant issued by a judge to search an individual student's belongings, only reasonable suspicion that the search will produce evidence of a crime or a violation of school rules. Reasonable suspicion requires less evidence than probable cause, but it should be more than a hunch.
- School officials must return student property that has been confiscated unless it is illegal/contraband.
- School officials can install and use metal detectors as long as they are required for all students or every tenth student or other random selection.
- School officials can conduct a general search of student bags and other belongings at school entrances, or the entrance to a dance or other school activity.
- The Family Educational Rights and Privacy Act (FERPA) is a Federal law that protects the privacy of student education records.



## FAQs

### Are school officials allowed to search lockers and desks?

Yes. Lockers and desks are school property. School authorities can search your locker and desk without reasonable suspicion if they tell you ahead of time and allow you to be there during the search. They can search a locker without telling you ahead of time only if there is a reasonable suspicion that the locker holds material that threatens the health, welfare, and safety of students in the school. School authorities cannot search inside any of your belongings that they find inside your locker or desk, like a closed purse or backpack. To search a closed personal container, the school official must have reasonable suspicion that he or she will find evidence of a violation of school rules or of the law inside that container.

### If they find anything in my locker or desk, like drugs, cigarettes, or weapons, can they use it as evidence against me?

Yes. School authorities can seize any illegal materials and use them as evidence against a student in disciplinary proceedings. Illegal material includes any item banned at school, such as cigarettes, alcohol, drugs, knives, and guns. And there is nothing to stop school officials from telling the police what they have found and giving them the evidence. If the police bring criminal or juvenile charges against you, then a judge will have to decide whether the search was reasonable before the materials taken from you can be used as evidence in the court case. The bottom line is: do not bring banned items to school.

### I got caught texting during class and my teacher took my cell phone. Can she just take my property like that?

If your school has a rule that you cannot use your cell phone during class, then teachers can enforce that rule by taking your cell phone. The school cannot keep your cell phone forever, though, and must explain how you can get it back.

### Can a student's car parked in a school lot be searched?

School officials, including school security, have the authority to search cars if they have reasonable suspicion that a search of the car would uncover evidence of contraband or disciplinary violations. However, regular (non-school) police officers or school officials acting at the direction of regular (non-school) police officers must have probable cause to search inside a student's car.



## Fourth Amendment of the Bill of Rights

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

### Can school officials conduct strip searches of students?

Almost never. Strip searches are conducted by removing part or all of a student's clothing to inspect private areas and undergarments. Strip searches are so intrusive that they almost always violate students' privacy rights. The only exception is if the school reasonably suspects that a student is hiding items that pose a threat to other students, such as dangerous drugs, under their clothes on their bodies, and there is no less intrusive way to search.

### Am I required to submit to a drug test in a school setting?

Yes. If you participate in school athletics or extracurricular activities, the Supreme Court has ruled that you can be required to submit to drug testing, even if school officials do not meet the lower standard of reasonable suspicion. The Court has found that testing a student's urine is not intrusive and the school has an interest in preventing drug use among students and a responsibility to protect their health and well-being.

## Your Rights Outside of Schools

- You have the right to remain silent. If you wish to exercise that right, say so out loud.
- You have the right to refuse to consent to a search of yourself, your car or your home.
- If you are not under arrest, you have the right to calmly leave.
- You have the right to a lawyer if you are arrested. Ask for one immediately.
- Regardless of your immigration or citizenship status, you have constitutional rights.
- Do not physically resist a police search, even if you think the police are wrong and the search is illegal. That can be used against you later.

## FAQs

### What should I do if the police stop me at school or on the street?

You always have the right to remain silent if the police begin to question you at school or on the street. Politely ask the officer, "Am I free to leave?" If the officer says "yes," then leave immediately. If the officer says "no," then you are in police custody and are not free to leave. This is a form of arrest, even if the officer fails to inform you.

### What should I do if I am arrested?

Do not try to talk your way out of police custody. Ask for an attorney by clearly saying "I want to speak to an attorney." After you have said this, police cannot question you anymore without an attorney present.

### The officer asked to search me, and I said no. He searched me anyway. Can he do this?

If an officer has a reasonable suspicion that you are breaking the law, he can search you. But not consenting to a search is not "reasonable suspicion" in itself. If an officer asks to search you, your vehicle, or your home, say "I do not consent to this search" in a loud, clear voice.

### What should I do if the police knock on my door when I am home alone?

In order to search your home, the police must have a valid search warrant with specific details about the person or place to be searched. The warrant must have a judge's signature, facts detailing probable cause, and must be sworn and signed by an officer. If they do not present a valid warrant, you do not have to allow them into your home.

Only in emergency situations, like when a person is screaming for help inside the house or when police are chasing a suspect, are officers allowed to enter and search your home without a warrant.

### How long can I be detained?

It depends on if you are accused and adjudicated for an offense as a juvenile or charged as an adult. If you are charged as a juvenile, you cannot be held in a detention facility for more than 24 hours. These hours do not include Saturdays, Sundays, or holidays. While you are in custody, your attorney or someone at the facility should read you your rights while in detention.

If you are charged as an adult, you cannot be held in jail without charges for more than 24 hours. After you are charged, the length of detention before trial can vary, depending on the charges. Less severe charges will often allow for the accused to post bail before trial.



# 03

# Your Rights to Equal Treatment

## Discrimination

If you think you've faced discrimination, report any abuse to the school principal or the school staff member identified in the student handbook as responsible for receiving reports of harassment or discrimination. Don't just tell a teacher or school counselor.

### Things You Can Do...

1. Keep a list of all the anti-LGBTQ incidents at your school.
2. Contact the superintendent of the school district or the school board and get help from them.
3. Tell other groups, like LGBT support groups, about the problem.
4. Contact the ACLU of Mississippi for help.
5. File a complaint with the U.S. Dept. of Education's Office of Civil Rights.
6. Keep records of all responses and documents.

### Equal Protection Clause of the 14th Amendment

"All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

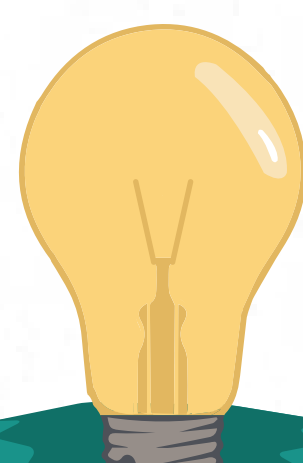
## LGBT Rights

Unfortunately, Mississippi has no specific protections in place for LGBT students. However, several federal statutes have been interpreted to protect LGBT students. First, public schools have an obligation to make sure a student is in an environment to learn to the best of their ability. This means that if a student is being bullied, for their sexual orientation or otherwise, a school must do everything they can to stop the bullying.

LGBT students are also protected by Title IX, which covers sex-based discrimination. A male student cannot be punished for doing things a female student would not be punished for, such as wearing dresses or dating other male students. This would be considered sex discrimination.

- Students are allowed under the Constitution to take dates of the same gender to prom and other school events.
- Students are allowed to dress however they wish, as long as they abide by the dress code that applies to everyone. For example, a male student can wear a dress, as long as the dress is within school guidelines.
- Your school cannot threaten to "out" you to your family, other teachers, or other students.





## FAQs

### **Is my school required to protect LGBTQ students who have been called names, threatened, or have had nasty messages left on their lockers?**

Yes. LGBTQ students are protected from harassment and discrimination at school by several laws and policies. Anti-gay harassment that creates a sexually hostile environment is illegal under federal law. If you are being bullied because of your sexual orientation or gender identity, it is harder for you to learn school material. Therefore, your school has an obligation to stop this harassment.

### **My friends and I want to start a Gay-Straight Alliance at our school to meet after classes in our school building. Do we have a right to meet at school?**

Yes. If your school allows other student clubs (not related to courses), like chess, community service, or Bible clubs, to meet at school after school hours, then it has to let your club meet, too.

### **The principal told students that only boy-girl couples could go to the prom together. Can he make such a rule?**

No. Courts have said that gay and lesbian couples can go to the prom together. The First Amendment says that you have a right to associate with whom you want, and the Fourteenth Amendment says you have a right to equal treatment. If other students can go to the prom with their chosen dates, then you should be allowed to do so, too.

### **I am a transgender female, and my principal sent me home for wearing a dress to school. Is she allowed to do that?**

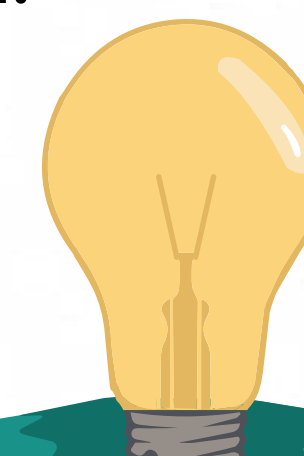
No. Both the Fourteenth Amendment right to equal protection and the federal law that bars sex discrimination by schools that receive federal funds, known as Title IX, protect the right of transgender students to dress and act in accordance with their gender identity. This means that transgender students have the right to wear clothes and use the bathrooms and locker rooms that match their gender identity, rather than the sex they were assigned at birth.

### **Can my school tell my parents or teachers that I'm gay or transgender?**

No. Your school does NOT have the right to "out" you to anyone without your permission, even if you're out to other people at school. If you are transgender, your birth name and the sex you were assigned at birth are considered private educational records and cannot be revealed to other students or even teachers unless there is some reason the teacher needs to know.

## Sexual Harrassment

Sexual harassment is unwelcome verbal or physical behavior of a sexual nature that may include requests for sexual favors by teachers, coaches, or other school officials in return for some benefit, such as a good grade. Using sexual slurs, making insulting noises like "catcalls," performing lewd gestures, and touching individuals inappropriately may also be considered sexual harassment. It may include behavior that creates an intimidating, hostile, or offensive school environment or that interferes with the student's school performance. Sexual harassment of students and by students is against the law, whether it's teacher-on-student, student-on-student, or student-on-teacher harassment. All schools must have a procedure for students to report and resolve complaints of sexual harassment. Sexual harassment can happen to men or women.



## FAQs

### **Our teacher is always making jokes about sex to us. It makes me feel uncomfortable. Is that sexual harassment?**

Possibly. The teacher's continued unwelcome sexual jokes to you in class may be creating a hostile classroom environment and seriously interfering with your ability to study and do well in school. That may be sexual harassment. If this makes you feel uncomfortable and/or interferes with your schooling, ask the teacher to stop or report it to another school official.

### **Are public school students protected from sexual harassment by other students?**

Yes. Public school officials can be held legally responsible for student-on-student sexual harassment that occurs at school. Courts consider whether school officials clearly know, have been made aware of or should have been aware of the harassment and have done nothing to stop it. They also consider whether harassment is so serious that it deprives the student being harassed of educational opportunities at the school.



## Other Types of Discrimination

### **Does the school have a responsibility to provide athletic opportunities for women?**

Yes. Title IX requires schools to provide equal athletic opportunities to both male and female students. A school cannot prevent a woman from playing on a predominantly male football team if there is no comparable team for female athletes.

### **Can schools prevent homeless students from attending?**

No. The Mississippi Department of Education must ensure that each homeless child has equal access to the same free, appropriate public education, to which other Mississippi children are entitled.

### **Can the school deny my admission because I am an immigrant and lack a social security number?**

No. Both documented and undocumented immigrants have the right to attend public schools in Mississippi and all other US states. No student can be turned away due to their immigration status. Schools cannot require parents or students to disclose their social security number nor their immigration status. In addition, schools are not allowed to tell outside organizations about the immigration status of their students, unless the parents are informed and sign a waiver.

### **Do students who are limited English speakers have a right to be educated in their native language?**

No. Federal law requires school districts to provide equal educational opportunities to language-minority students, meaning that they are not allowed to discriminate on the basis of race, color, or national origin. Schools are not required to teach students in the language that they know best. Mississippi does not have policies in place for educating students with limited English proficiency, but the Mississippi Department of Education does give school districts guidelines and information for how to implement programs to serve English language learners.

### **I am frequently bullied by a group of students. I reported the problem, but nothing was done to stop it. Is the school required to do anything when I complain about being bullied?**

Yes. School officials have an obligation to follow up on complaints about bullying and to intervene in those situations to stop the harassing behavior. Ultimately, the principal is responsible for resolving the problem and doing what is needed to create a safe school. If the principal does not do that, you should complain to the superintendent or head of the school district. Make sure you keep records of every time you or your parents have told the school that you are being harassed or bullied by other students.

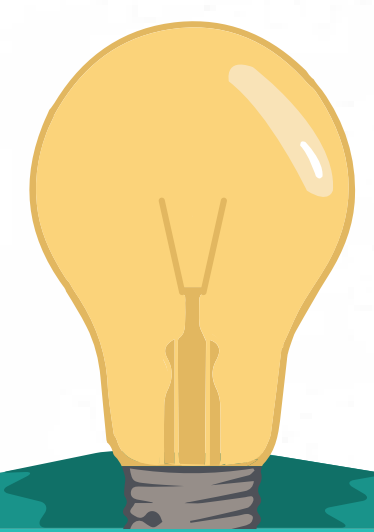




# Your Right to Health Care Services and Sexual Education

## Did You Know...

1. Abortion is legal in Mississippi, even for minors.
2. Minors can receive health services, including birth control, without permission.
3. Mississippi schools are not required by law to teach safe sex.
4. Mississippi public schools are not allowed to teach religion with abstinence only education.
5. In 2015, Mississippi's teen pregnancy rate was the 3rd highest in the nation.



## FAQs

### Can I receive medical treatment and information about birth control without my parent's knowledge?

Yes. Minors can receive certain medical treatment without parental consent. Mississippi law states that a minor can give her/his own consent to receive medical attention, without consulting a parent or guardian for conditions such as a sexually transmitted disease or substance abuse. Additionally, you have the right to information about birth preventative measures, counseling, and contraceptives, including condoms and birth control pills as part of your constitutionally protected right to personal privacy. Yet, access to birth control has become more difficult with abstinence-only programs in schools and limited funding for Planned Parenthood, which has offices in Hattiesburg.

### Do students have the right to learn about birth control, pregnancy, STDs, and abortion at school?

No. Mississippi school curricula are not required by law to offer courses in sexual education. Schools are not required to provide condoms, birth control, or reading materials on sex-related issues. House Bill 999, passed in 2011, requires districts to adopt either "sex abstinence" education or "abstinence plus" education. If comprehensive sexual education is not taught in your district and you would like it to be, talk with your district superintendent and school board.

### Is abortion legal in Mississippi?

Yes. Even though abortion is a controversial topic in the U.S., every woman has a constitutional right to choose what is right for her health situation. No one can force you to have an abortion without your consent, and if you are over 18, no one can stop you from having an abortion. Currently in Mississippi abortions are only available until the 20th week of pregnancy, after which abortion is no longer an option in this state. Emergency contraception, also known as the morning after pill, can also prevent pregnancy if taken up to five days after unprotected sex. You must be 17 to purchase emergency contraception, which may be available from your local pharmacy.

### Does a minor need parental consent to get an abortion?

Yes. If you are under the age of 18 and not emancipated from your parents, you cannot get an abortion from a Mississippi provider without a judicial waiver. A minor who elects not to seek or does not obtain consent from her parents or legal guardian may petition the court for a judicial waiver, where a judge could find that she is mature enough to make a decision about her own healthcare.



# 05 Internet and Social Media

## The Basics

- School officials are allowed to limit students' internet activity done on school-owned computers.
- Generally, school officials cannot punish students for what they post online when they are at home or away from school.
- School officials cannot stop students from posting to social networking sites, like Facebook, when they are outside of school.

The First Amendment also protects the free speech rights of internet users, including public school students.



## FAQs

### Can school officials punish students for what they say on personal or social networking sites when done off-campus?

Generally no, but there may be some exceptions. Schools cannot control what you say or post on the internet on your own time using your own computer if you do not physically bring it onto school property. This is true even if you are discussing school. The school may be able to punish you for off-campus speech that disrupts the school, makes a threat against a teacher or another student, or amounts to severe harassment. You would need to do more than just offend a school official to be disciplined.

### What if I create a website as a project in my computer class at school, or if I use a school computer to post a status update on Facebook?

Your school has some control over what you can say online using a school computer or what you do during a school-sponsored activity. As with speech or clothing, if something happens in school, teachers have a lot more authority to restrict what you do, including what you say or post on the internet. That changes significantly when you are away from school.

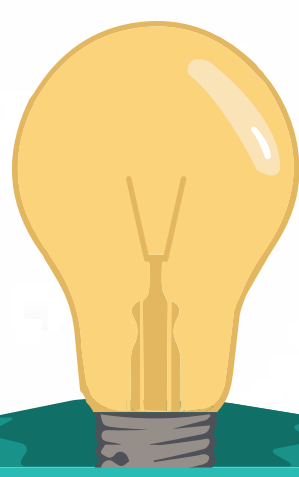
### I texted my friend from home making fun of our assistant principal. A school official saw it and suspended me. Can the school do that?

No. If you sent the text from your personal device (not a school-owned device) when you were away from school, a school administrator should not be able to punish you. If your friend accesses the text at school (even outside class time), and the message contains swear words, sexually explicit language or images, or promotes drug use, he or she could be punished.

### My friend posted photos on Instagram that showed me drinking beer on a school trip. My principal saw the photos and gave me an in-school suspension. Is he allowed to do that?

Yes. Your principal has the authority to discipline you for violating school rules during a school-sponsored trip. Anything that you or your friends post on social networking sites may be viewed by school officials. Even if you don't "friend" them, one of your friends can still show your page to a teacher. Keep in mind that even if you deactivate your account, the stuff you post may still be accessible to others.





## At School

1. Check your school's computer-use policy before you post anything using a school's computer. The policy can be found in the student handbook or on the school website.
2. If your school is blocking information that you think would be useful to students, speak up. Try to gather as much support for your position as possible and then let school officials know what you think.

**Can my school's basketball coach force me to reveal my social media password to play on the team?**

No. School officials cannot require you to tell them the passwords to your private social media or email accounts. School officials can require you to reveal passwords to school-owned email accounts, however.

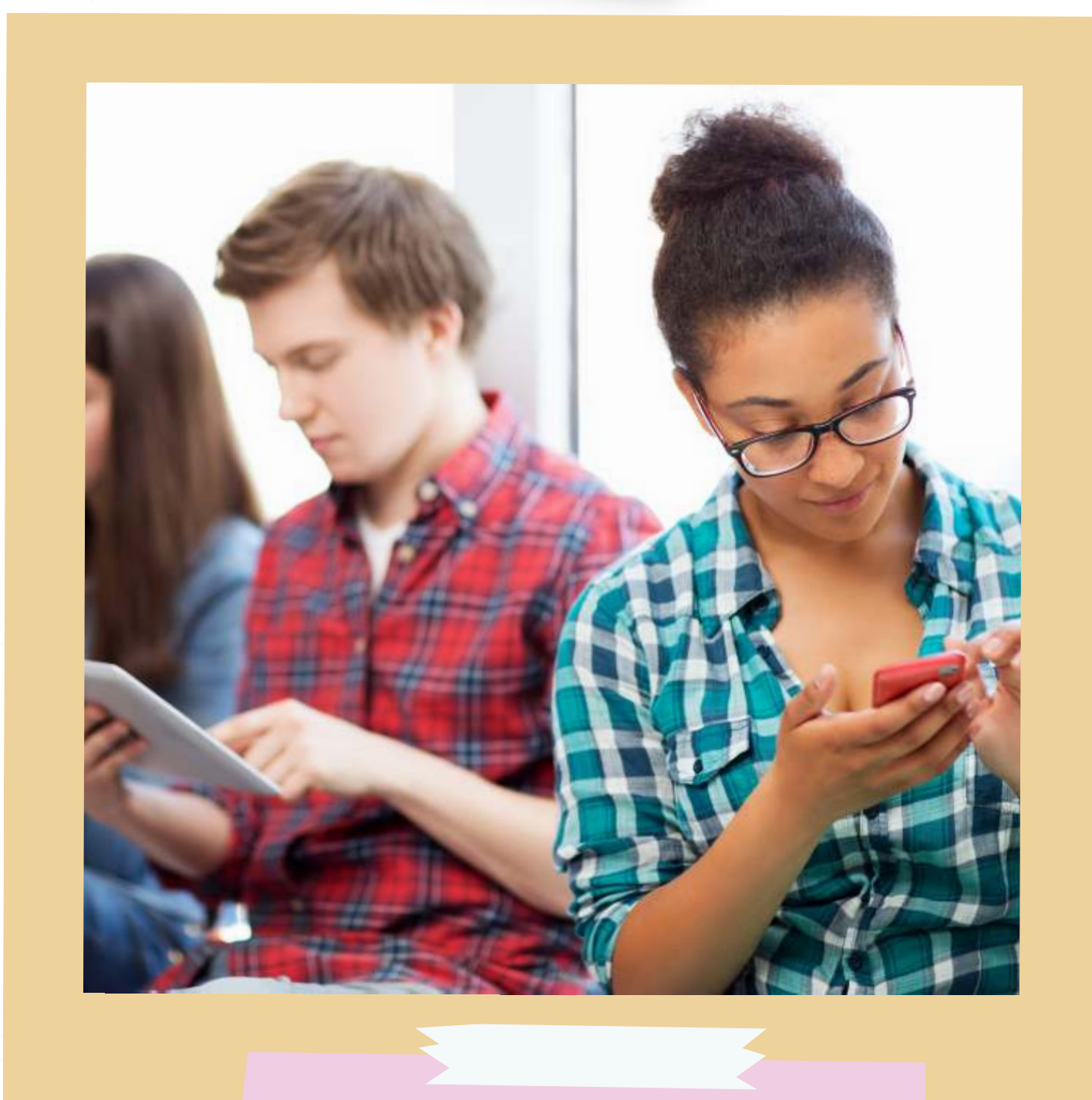
**Can my school library put internet filtering software on its computers?**

Schools that receive money from the federal government to help pay for internet service are required to install internet filters that block students from accessing information that might be harmful to minors on school computers, such as sexually explicit photos. A big problem is that many schools also block sites that feature content that schools or other authorities dislike, such as sites on AIDS or other health- and sex-related information.

## Away from School

1. Make sure that you post only information about yourself or your friends that you would be comfortable with your parents, teachers, and potential employers seeing.
2. If a friend posts something about you that you are uncomfortable with or tags you in a photo that embarrasses you or could get you in trouble, you should ask that friend to remove the photo or message from his/her page.
3. Check your privacy settings on Facebook to ensure that photos and messages can be viewed only by people you choose.

4. Be careful what you send from a school-issued email account. Check the school's rules to find out if there are any restrictions on what students can use them for. If in doubt, you should use a non-school email address like Gmail or Yahoo.
5. The ACLU believes that schools should not be allowed to control students' off-campus speech. Call us if you have a problem.



Keep in mind, connecting your personal devices to school computers can put you and your information at risk.



# 06 Student Discipline

## The Basics

- School officials cannot punish you by refusing to give you a diploma, lowering your grade, or hitting you.
- If you are being suspended or considered for expulsion, you must be told what you are being punished for and school officials must inform your parents or guardian.
- School officials must set up a meeting or a hearing if you are being removed from school for more than three days.
- School districts must provide expelled students with an education until they turn 17.
- Students have the right to see their own discipline records.
- Students receiving special education services have additional protections.

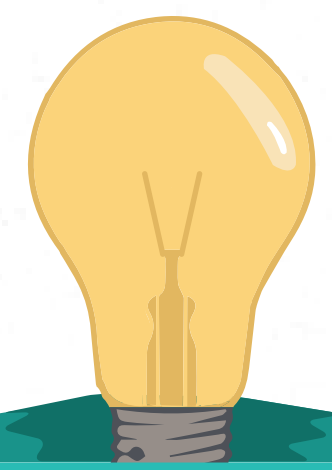


## Suspensions

A suspension is an exclusion for one to 10 days in a row. Being sent home counts as a suspension. You can be suspended by a principal or other person in charge of school discipline, such as the dean of students. Generally, a classroom teacher cannot suspend you, unless that teacher is also in charge of school discipline.

Once the school makes a decision about suspending you, normally you cannot appeal it to state court. You can ask the local school board to reduce or eliminate the suspension, and you may be able to challenge it in court if the discipline violates your constitutional rights.

School policies about suspensions can be found in the Code of Student Conduct.



FAQs

### What procedures must school officials follow if they want to suspend me?

School officials must tell you the reasons for the suspension and give you a chance to respond. Depending on the circumstances, school officials may or may not have to do all of this before the suspension starts. For example, if you are considered a threat to the school, school officials will suspend you first and then hold a hearing. If you are suspended, your parents and the superintendent of your school district must immediately be told in writing why you are being suspended. Students must be given a chance to make up exams and other work missed while on suspension.

### What if the school suspends me for more than three days?

If the suspension is longer than three days, school officials must offer to hold an informal hearing to discuss the situation with your family and give you a chance to show why you shouldn't be suspended. An informal hearing is usually a meeting with the principal. You have the right to question any witnesses present at the hearing, to speak, and to produce witnesses on your behalf.

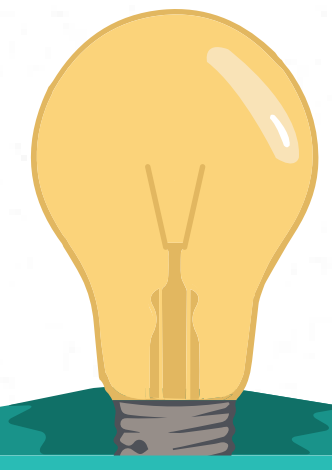
### I'm being suspended from my classes, but the vice principal told me I am still expected to come to school. What kind of suspension is this?

It's an in-school suspension, meaning a student is excluded from his or her regular classes but is still expected to come to school. During the suspension, the school district must arrange for your continued education, and you have the right to make up school work.



# Expulsions

- You can't be expelled without a formal hearing to decide your case, unless you decide to give up your right to a hearing. The school board or a committee of the school board holds the hearing.
- You can't be expelled unless the majority of the school board votes to do so.
- You can remain in your regular classes until the formal hearing is held and the school board votes to do so.
- If school officials consider you to be a threat to the health, safety, or welfare of others (at an informal hearing), they can remove you from school before your expulsion hearing. You are not supposed to be removed from school for more than 15 school days without a formal expulsion hearing.



## FAQs

### What can my school expel me for?

Look in your school's Code of Conduct to find the offenses that could lead to expulsion from school.

### What happens to my right to receive an education if I'm expelled?

If you are 17 years old or younger, you must be provided with some type of education. Your parents are responsible for finding another educational program for you after you are expelled. If they can't do so within 30 days, they must tell the school district in writing. Then the school district must arrange for your continued education. If you are 17 or older, you no longer have a right to go to public school once you've been expelled. Some districts allow older expelled students to complete their education, although they don't have to do so. If you want to return to school, ask your school district to provide you with an option.

### Can I go to school in another district if I have been expelled?

Yes. A school district may not deny or delay your enrollment based on the information contained in a disciplinary record. If you are currently expelled for a weapons offense, your new school district can place you in an alternative education program during the period of your expulsion.

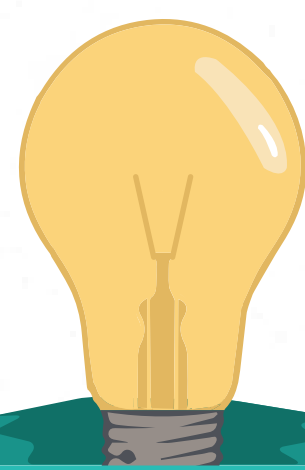
### Can I return to my regular school if I have been permanently expelled?

In most cases, no. A permanent expulsion means that a student cannot return to his or her regular school. Check the rules of your local district.

# Discipline of Students with Disabilities

The Code of Conduct applies to all students. But students with disabilities have specific rights in the discipline process. This is in part because the law recognizes that a student's behavior may be a result of his/her disability or the school's failure to address their needs.

The law also recognizes that students with disabilities may need accommodations in how teachers and law enforcement interact with them, including when discipline is involved. Students with disabilities (including students with PTSD, ADHD, and other behavioral disabilities) may need and have a right to school staff employing de-escalation and other methods to work with them if problems arise.



## FAQs

### Can a student with a disability be suspended or expelled from school?


Yes. But schools must follow a different process than for other students. In many instances, a school must first hold a hearing - called a "manifestation determination" - to determine if the behavior was due to the disability or a direct result of the failure to implement her Individualized Education Program (IEP), before excluding him/her from school or changing their placement.

### Can a teacher hit a student with a disability if he/she doesn't behave?

No. Corporal punishment (hitting or spanking) can never be used on students with disabilities. Some districts do not allow corporal punishment for any student, regardless of disability status.

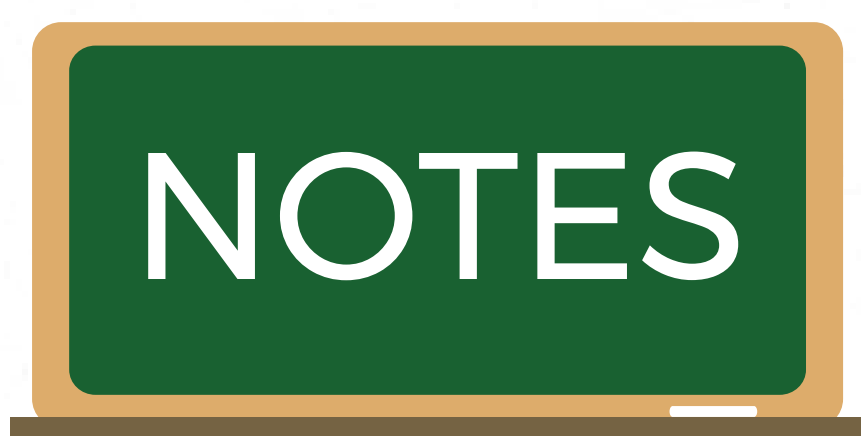
There are very few instances in which school staff may restrain a student with a disability. When that happens, the school must notify the parents and also convene a meeting of the IEP team within 10 school days to discuss the use of restraints, to develop a plan to avoid it in the future, and to determine whether the student needs a different educational program.





# Searches and Student Privacy

WHO	WHAT	WHEN PERMISSIBLE
<b>SCHOOL STAFF</b> Principal, teacher, or school security, but not the regular police	<b>Lockers and desks</b>	Need <i>reasonable suspicion</i> only if they don't tell you ahead of time about the search. They don't need <i>reasonable suspicion</i> if they tell you ahead of time and allow you to observe the search.
	<b>Backpacks, purses, and cell phones</b>	Need <i>reasonable suspicion</i> they will find evidence that you violated a school rule or the law.
	<b>General searches of backpacks and purses; metal detectors</b>	As long as all students or randomly selected students are searched, no need for individualized suspicion.
	<b>Strip searches</b> The removal of all or part of an individual's clothing so as to visually inspect private areas or undergarments	Almost never allowed unless they have <i>reasonable suspicion</i> that you are hiding something that poses a threat to other students (such as dangerous drugs) under your clothes and there is no less intrusive way to search.
	<b>Random drug tests of all students</b>	Generally no except in extreme circumstances.
	<b>Random drug testing in optional extracurricular activities such as sports and clubs</b>	Only when the school can show that there is a history of drug abuse in a particular program or a problem with a particular group of students. A student can refuse to take a drug test, but can be prevented from participating in the activity.
	<b>Cars parked on campus</b>	<i>Reasonable suspicion</i> that search would reveal evidence of a crime or disciplinary violation.
<b>POLICE</b>	<b>In-school searches</b>	<i>Probable cause</i> and search warrant except in extreme situations where there is a threat of immediate harm or if they think evidence of a crime would be destroyed if they wait to get a warrant.
	<b>Drug dogs sniffing student lockers</b>	Schools must have warned students that lockers may be subject to such searches.
	<b>Drug dogs sniffing student personal property</b>	Police must have <i>reasonable suspicion</i> that student property contains an illegal substance.
	<b>Drug dogs sniffing students</b>	Police must have <i>probable cause</i> that the student has illegal items on him/her.



## NOTES

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