

Know Your Rights

A guide for public school
students in Wyoming



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A Guide for Public School Students in Wyoming

This guide provides general information about students' rights in Wyoming 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. The laws cited in this guide may change. Please be sure to research any specific laws that you think may apply to your situation to ensure that you have the latest version. You can also contact the American Civil Liberties Union of Wyoming.

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School is a place where you start to wonder why things are the way they are. You may want to question school authorities and adults, and sometimes that makes them uncomfortable. Go ahead and ask questions, but don't forget to be respectful. A reasonable degree of discipline and order keeps the educational environment a place where everyone can learn.

Learn your rights so you can protect them. It takes courage but you are not alone, and there are people who can support you. Stand up for your rights!

Students' Rights & Responsibilities

Students have rights – and responsibilities! You have both substantive and procedural rights. Your *substantive* rights include the right to speak freely, to privacy, to a basic education, to be free from unreasonable searches and seizures, to exercise your freedom of religion, and to be free from unlawful discrimination. Your *procedural* rights include the right to know what the rules are, to be notified when someone thinks you broke the rules, to tell your side of the story, and to appeal decisions of school officials.

As a student, you also have responsibilities. You have to go to school, and while you are there, you must follow the school's lawful rules.

Stand Up for Yourself! How to be Your Own Advocate

Teachers and school officials usually want to do what's right, even if they sometimes get it wrong. If you believe your rights have been violated, here are some steps that may help you explain why school officials should agree with you. Remember, you are not alone! Ask a sympathetic teacher, a parent or other adult for help. You can also contact the Wyoming ACLU.

Learn Your Rights

You have rights under both federal and state laws, including the U.S. Constitution, the Wyoming Constitution, and the Wyoming Education Code. The Wyoming Department of Education may have additional information.

However, the best place to start is to learn your own school's policies and procedures. You can usually find these in your student handbook or on your school's website. You can also ask a teacher, the principal, or someone at the school district office.

If you have a question, this guide can help. If you can't find the answer, ask a counselor or a teacher. You can also contact the Wyoming ACLU.

*Make copies!
If you submit or receive anything in writing,
keep it in case you need it later.*

Write Down Your Facts

If you believe your rights have been violated, start keeping track! The best way to remember what happened is to write things down right after they happen.

- *Who was involved?*
- *What did they do?*
- *When did it happen?*
- *Where were you?*
- *Why did people make certain decisions?*

Remember: who, what, when, where, why.

Know What You Want

What do you want the school to do? Don't be afraid to ask, but be specific. Are you looking to change a decision only about you? Do you want to change a policy affecting other students in your school or the whole district? Maybe you want to change state law or state policy.

Identify Your Allies

If you think things are unfair, chances are that there are others who feel the same way. Find out if other people in the community have the same or similar problems. There is strength in numbers. Try to find students, teachers, parents, or others who will work with you. You can ask people to sign a petition, you can write an article for the school paper, and you can attend school board meetings.

Find Out Who Has the Power to Help

After you decide what you want, figure out who has the power to help you. If something unfair has happened in class, maybe you want to start with a teacher or counselor. If your complaint involves a teacher or school activity, talk to your principal. If your problem is with the principal, or if the principal isn't helping you, the next step might be to contact the superintendent, a member of the school board, or the school board as a whole.

Go See the People with the Power

Make sure you meet with your allies first so you all agree on what you're asking for, and who is going to ask for it, then meet the people who can help you. Before you meet with the teacher or administrator:

- *Let the school official know who is coming to the meeting*
- *Outline what you want to say*
- *Decide who will speak and who will take notes*

Read everything you get from the school right away, and save it. Make sure you respond before any deadlines, or you may lose your right to appeal.

You might even want to record your meeting, if everyone at the meeting consents. Remember, treat people how you want to be treated. Just like anyone else, school officials are more likely to listen if you are calm and respectful.

If school officials do not agree with you, ask why and make a note of what they say. Does their answer make sense? If not, try to understand why not. If you still can't get people to agree with you, ask what the next step is. After the meeting, send a note or an email to the people you met describing what agreements you came to – or why you did not.

Watch the Time Limits

Sometimes you only have a few days to challenge a decision. Read your school's policies and procedures to learn how long you have, and don't be late! There may be short time limits on how long you can wait to request a hearing on a suspension or expulsion.

Express Yourself! Freedom of Expression

The First Amendment of the U.S. Constitution and the Wyoming Constitution protect your freedom of expression. This includes not just your right to be heard, but to hear what others have to say, too – in spoken and written words, and even symbols. Your message might be in a paper, at a protest or parade, on the Internet, or on your clothes. Remember, the best way to combat offensive speech is more speech!

All citizens, even students, are subject to limits on their right to freedom of expression.

Things you say about others that are untrue and harms someone's reputation may be defamatory, particularly if you knew or should have known it was false when you said it. This is not the same as legitimate criticism. In the outside world, speech may be considered obscene if it is sexual, offensive, and lacks a real literary, artistic, political or scientific message. In schools, obscene speech is defined even more broadly. For example, offensive, profane language and gestures are usually prohibited, along with sexual innuendos and other messages that are inappropriate for students and have no redeeming social value. For example, in *Bethel School District v. Fraser* (1986), during an assembly, a high school student gave a campaign speech filled with sexual innuendoes, and the Court upheld the school's decision to discipline. Some schools have even punished kids for farting on the bus, where it caused a disruption.

The First Amendment
does not cover:

- *defamatory statements*
 - *obscenity*
 - *true threats*

School officials are also sometimes too quick to discipline students who joke about violence. In order for your speech to be punishable, it must be a true threat – that is, clear and convincing words that are intended to threaten someone, and that would make a reasonable person feel afraid for his or her safety. Speech intended and likely to provoke imminent violence or illegal activity may be restricted in and out of school, as it was in *Brandenburg v. Ohio* (1969). Brandenburg was a Ku Klux Klan leader in rural Ohio who had a reporter film a rally where he advocated violence. The Court found that people can be punished for inflammatory speech when it is intended and likely to incite imminent lawless action.

The U.S. Supreme Court said that students and teachers do not “shed their constitutional rights to freedom of speech or expression at the schoolhouse gate.” While you don't get to say whatever you want whenever you want, school officials cannot censor or punish you just

because they don't like or agree with what you have to say. For example, some people don't like to talk about racism, gay rights, teen pregnancy or other things that make them uncomfortable. The real question is whether what you say causes a "material and substantial" disruption of class or school activity.

Tinker v. Des Moines

The courts are more likely to be on your side if you are making a political or religious statement, and you don't cause a disruption in class or school activities. In the famous case, Tinker v. Des Moines (1969), middle school and high school students wore black armbands to school to protest the Vietnam War. The Court upheld their right to constitutionally protect symbolic speech.

Free Speech & the Internet

Your right to express yourself is not limited to more traditional forms of speech, like spoken and written messages. It includes emails, blog entries, and postings on facebook or other social media sites. There is, however, a difference between on-campus and off-campus school speech. If you are at school, you should follow your school's Internet use policies, so long as they are based on a legitimate educational reason.

You should not be disciplined by school officials for private emails or other Internet postings, so long as it is your own message, on your own time and on your own computer – even if what you're saying is about school. But just like the Internet, the law is developing and changing for off-campus cyber-speech.

If your off-campus Internet speech causes a disruption at school or a school activity, or you are threatening or harassing other people, the courts are more likely to allow a school to discipline you. Like other forms of speech, political and religious messages are entitled to more protection.

Dress Codes

Sometimes you express yourself through what you wear. Your clothing is not automatically viewed as protected speech. Political and religious statements are more likely to be protected, and you can wear clothes in observance of your religion. Sunglasses, hats, short skirts, piercings or sagging pants do not necessarily communicate a protected message. Violent and hateful messages are generally prohibited because they can be disruptive.

In order to prevent disruptions to education, schools are permitted to establish dress codes, including rules about the lengths of skirts, they style of shirts, and different hairstyles. For example, a skirt that's too short may be unsafe in the winter or a distraction to other students. Long, loose hair in a shop or cooking class could pose a health hazard.

Gang Attire

School boards can ban "gang" attire, but they have to tell you what clothing is considered "gang-related" before you can be disciplined for wearing it. The dress code should be clear. If it's not, ask for clarification. The dress code should not unfairly single out a particular group of students.

Student Newspaper & Written Materials

What you get to say in student newspaper depends on whether the school sponsors the paper. If the newspaper is part of the curriculum, contains the school's logo, is printed under school supervision, or at school expense, it is "school-sponsored," even if it written by students. In *Hazelwood v. Kuhlmeier* (1988), a student wrote an article for the high

school newspaper about teen pregnancy and divorce. The principal didn't think the article was appropriate for younger students so he removed it before the paper was published. The Court backed his decision. Schools have final say over what goes in the school-sponsored paper, but any decision to censor your work must be based on a valid educational purpose, and not just because someone disagrees with what you say. You can also ask for the reason your work was censored or removed, and appeal the decision.

If you want to publish an unofficial or underground paper, you get to control the contents. If you want to distribute a newspaper, flyer or other written material at school, get permission. Everyone, including students and teachers, must follow the school's rules for when, where and how you can distribute written materials.



Just like other forms of speech, you can get in trouble if it causes a disruption at school. The school may also ban your message if it is vulgar, obscene, threatening, or advocates illegal activities, like drug use. In *Morse v. Frederick* (2007), students were released early from class to attend the 2002 Olympic Torch Relay. A high school student carried a banner that said "BONG HITS 4 JESUS." The Court upheld his suspension because it believed he was advocating illegal drug use at a school-authorized activity. Your speech also shouldn't violate the rights of others. Schools can have a policy of banning certain types of speech, but the policy must be related to a legitimate educational purpose, and it shouldn't be too broad or hard to understand what it means.

Protests & Demonstration

Don't wait to participate! Being an activist for causes you believe in can create real change, both on a local and a national level!

You have the freedom to express yourself in protests, rallies and songs, too. Ask for your school's policies. All parades and protests, even those

away from school, require permission and are subject to restrictions on when, where and how they can occur – these are known as time, place and manner restrictions. Like other forms of speech, sharing your message shouldn't disrupt classes and school activities. If you block the hallway, make noise while people are trying to study, or cut class, you might get in trouble. But you should be able to hold peaceful protests before or after school, and maybe during lunch. If you are not allowed to hold a protest at all, contact the ACLU.

The Library & the Internet

You have a constitutional right to both express *and* receive ideas. Schools may not remove books from school libraries just because of a school board or a parent's view of what is acceptable in politics, religion, or other matters of opinion. This is because the role of the library is to give students the chance to educate and enrich themselves on an optional basis – you can choose to read or not read a book that is in the library. In *Board of Education v. Pico* (1982), the school board ordered certain books that the board called anti-American, anti-Christian, anti-Semitic, and just plain filthy, to be removed from high school and junior high school libraries. The Court held that local school boards may not remove books from school library shelves simply because they dislike the ideas contained in those books.

Schools and teachers have more control over the curriculum and textbooks, because they are school-sponsored and all students are exposed to the curriculum. If someone wants to remove “controversial” or “inappropriate” materials from the library, you can object. Find out what your school's policy is on including and removing instructional materials.

Most schools use Internet filters to block certain websites, especially streaming sites, social networking sites, and sites with material school officials think may be inappropriate for young people. Sometimes, though, schools block sites that make them uncomfortable, like teen sexual health sites. They may also block sites that present one side of an issue,

but not the other one. For example, they may allow you to look at anti-gay sites, but not at supportive LGBT sites. This is called viewpoint discrimination, and it is illegal. If your school is blocking a site that might give you helpful information, or is blocking sites on only one side of an issue, ask if a teacher or counselor can unblock the site.

The Pledge of Allegiance

Your right to free speech includes the right to be free from being forced to speak. You cannot be disciplined for refusing to say the Pledge of Allegiance or saluting the flag. In *West Virginia State Board of Education v. Barnette* (1943), Jehovah's Witnesses students objected a school policy ordering them to salute the flag because their religion barred them from saluting or pledging to symbols, including political symbols. The state does not have the power to compel speech for anyone.

No one can ask you to get your parents' permission not to salute the flag, and no one should ask you to leave to room if you choose not to. To be considerate of fellow students and not cause a disruption, though, be prepared to keep quiet while others do.

Exercise Your Religion – Or Don't! Religious Freedom

The First Amendment of the U.S Constitution and the Wyoming Constitution not only protect your right to free expression, but also your right to your faith. The First Amendment contains two clauses. The Free Exercise Clause says you have the right to practice the religion of your choice – or you can choose not to follow any religion at all. The Establishment Clause says the government can't endorse, or require people to participate in, any particular religion. Public schools and teachers are considered to be part of the government, so they can't sanction a religion or make you engage in religious activities, either.



When the government supports a particular religion, it can make people from other faiths, or no faith, feel like outsiders. Religion is deeply personal and should be spread by people who carry religion in their hearts, not by the government.

Freedom to ...

Just like you have the right to express yourself, you have the right to practice your religion, so long as don't disrupt classes or school activities.

Schools can establish restrictions on when, where and how you share literature, but the restrictions must be the same for all literature that is not school-sponsored.

You have the freedom to ...

- *pray alone or in a group*
- *form a religious club (as long as your school allows clubs)*
 - *meet during non-instructional time*
- *be excused from class to go to religious services (without being encouraged to)*
 - *read religious texts*
 - *wear religious symbols or clothing*
 - *distribute religious literature*

Freedom from ...

You also have the right to be free from religion. In *Engel v. Vitale* (1962), the Court ruled that it is unconstitutional for state officials to compose an official school prayer and require students in public schools to say it. Schools can include religion in a history, social studies or literature curriculum. But schools and teachers should not teach that one particular religion is better than another, or better than not being religious at all.

Engel v. Vitale led to later decisions in which the Court more specifically limited government-directed prayer in school. In *Wallace v. Jaffree* (1985), the Supreme Court ruled that an Alabama law permitting teachers to begin the school day with a minute for prayer or meditation violated the Establishment Clause of the First Amendment. In *Lee v. Weisman* (1992), the court prohibited public school graduation ceremonies from being led by religious leaders. Then, in *Santa Fe ISD v. Doe* (2000), the Court found that *student-led* prayers at Texas high school football games were unconstitutional. The Court reasoned that the pre-game prayers given “on school property, at school-sponsored events, over the school’s public address system, by a speaker representing the student body, under the supervision of school faculty, and pursuant to a school policy that explicitly and implicitly encourages public prayer” were not private, but public speech.

Some people try to solve this problem by allowing students who don’t want to participate to leave the room. This “solution” only singles out some students. If you feel like your school officials or teachers are preaching a particular religion and you feel excluded, you should let a teacher or counselor know how you feel. You can also contact the Wyoming ACLU.

You have the right to be free from ...

- *prayer led by school officials or teachers during school, games or graduation*
- *holiday displays that promote one particular religion*
- *curriculum containing creationism, even if evolution is included*
- *bible distribution by school officials or teachers*
- *school official or teacher participation in religious clubs*

Organize! Equal Access for Student Clubs

If any non-course related student groups are allowed to meet at or use school facilities, then all student groups must have the same access, no matter what the group is about. The Equal Access Act applies to student

groups organized around any topic, including everything from chess club, to Bible study, to gay rights, to an ACLU student chapter! The school can't let other students take a vote on whether the club should be able to meet either.

When You're Ready ... Sex Education & Health

Wyoming schools are not required to teach sexual education, but some schools do. If you are thinking of having sex, you might want to talk to an adult you trust or counselor to help you make the right decision. You can get a birth control prescription, condoms, or a pregnancy test without your parents' permission. You can also contact the Wyoming ACLU.

Pregnant Students

If you are pregnant, you have the same right to an education as every other student. No one can force you to go to an alternative school, or make you take time off. You have the right to participate in the same activities as other students. You can't be required to bring in a doctor's note, unless other students have to for health reasons. Schools are permitted to offer special programs for pregnant and parenting teens, but only if the programs are voluntary.

You have the right to take time off for doctor's appointments and to receive the same educational support, such as make-up assignments and home tutoring, as other students who take time off for medical reasons. If you are parenting, ask a teacher, counselor or other adult you trust to help you continue your education. Together, ask school officials to help you come up with an education plan that gives you some flexibility.

You also have the right to choose adoption or abortion. If you're under 18 years old in Wyoming and you want to have an abortion, you must ask a parent, legal guardian, or a judge. There are free lawyers who can help you with your decision. You can contact the Wyoming ACLU for help.

Students Living with HIV & AIDS

If you are living with HIV or AIDS, you have the same right to an education as every other student. You are *not* required to disclose your status to school officials or the school nurse. If you do, they cannot tell anyone else unless you give them permission.

There is no evidence that HIV/AIDS has ever been transmitted through everyday casual, non-sexual contact, so you cannot be excluded from school or extracurricular activities. If you are living with HIV/AIDS, you may only be barred from school if there is sound medical evidence that you pose a significant risk of communicating the disease to others in the school.

Don't Discriminate, Educate! Equal Protection in Schools

Students have the right to be free from discrimination at school. In Wyoming, you cannot be denied an education or access to a school activity based on your sex, race or religion. Federal laws protect you, too.

- **Title VI** prohibits discrimination on the basis of race, color or national origin
- **Title IX** prohibits discrimination on the basis of sex in education programs
- **Section 504** prohibits discrimination on the basis of disability

Sometimes, though, people still discriminate. If you or another student you know is being discriminated against, you should tell someone. Write down what happened, and report it to an adult, teacher, counselor or school official. You can also contact the ACLU.

Harassment

Harassment takes place in many forms – it includes verbal, physical, mental and emotional abuse. It may come as unwanted touching, vandalism of your property, threats or derogatory comments. It can be from students, teachers, or other people at school. Schools are required to have a written policy on how to respond to complaints of bullying or harassment. In *Davis v. Monroe County Board of Education* (1999), the Court held that schools can be held responsible if: 1) they actually know about the sexual harassment, 2) they don't take steps to prevent or stop it, and 3) the harassment is so severe that it deprives you of educational opportunities at school. Look in your school handbook. If you can't find the handbook or the policy, ask a teacher, counselor or principal to show it to you and explain how it works.

LGBTQ Students

Lesbian, gay, bisexual, transgender and questioning students should be treated equally and protected from discrimination. LGBTQ students, like other students, have the right to be free from bullying and harassment.

If you are gay, it is your decision whether you tell anyone and who you want to tell. School employees should not “out” LGBTQ students. If a teacher, counselor or any other school official threatens to out you to anyone (even your parents), know that it is a violation of your constitutional right to privacy to have your sexual orientation disclosed without your consent.

You have the same rights as other students to:

- express yourself
- wear the attire of your choice, so long as it is appropriate for school
- go to prom with a person of the same sex
- organize student groups

Gay Straight Alliances

GSA's are student organizations that can be support groups, educational or political organizations, or anti-bullying clubs. You do not have to be gay to start or participate in a GSA. The Federal Equal Access Act says that if a school permits extracurricular activities then the school must allow students to participate in a GSA and has to treat that organization the same way it treats other organizations.

Athletics

All students, no matter what gender, have the right to equal opportunities and treatment in school athletics. Schools are still allowed to have separate teams, but no matter what your gender, you should have the same chance to participate. The teams should get similar lockers, practice facilities, equipment, publicity, transportation, coaching, and practice times.

If your team isn't being treated the same as a team of the opposite sex, see if other students feel the same way. Schools should have a written procedure on how to respond to complaints of athletic discrimination. Look in your school handbook. If you can't find it, ask a teacher, counselor or principal to show and explain how it works to you.

Check Your Stuff! School Searches, Privacy & Police

The Fourth Amendment of the U.S. Constitution and the Wyoming Constitution protect you from *unreasonable* searches and seizures, both in and out of school. When you are in school, though, there are some differences in what is considered to be unreasonable. Laws on school

searches keep changing, so if you feel like you've been unfairly searched, contact the Wyoming ACLU. Here are some terms that come up when people talk about search and seizure:



→ *Expectation of privacy*: you have a different expectation of privacy in different things. If school officials want to conduct a search, the requirements for them to search increases corresponding to how private society thinks something should be. You have a greater expectation of privacy in your own person than your backpack or purse, and in your backpack or purse more than in your car.

→ *Consent*: you are never required to consent to a search. School officials can ask you for permission to search you or your things, but you can say no. If they search you anyway, don't physically resist, but tell them that you do not consent to the search.

→ *Reasonable Suspicion*: when school officials have enough facts to *suspect* that a search will uncover evidence that a particular student violated a specific school rule.

→ *Probable Cause*: when school officials have enough facts to *believe* that a search will uncover evidence that a particular student violated a specific school rule.

Reasonable suspicion and probable cause are similar, but probable cause is a higher standard. In *New Jersey v. T.L.O.* (1985), a high school student was searched after she was caught smoking. School officials found marijuana, drug paraphernalia and evidence of drug sales. The student argued that the search was unconstitutional because it violated her Fourth Amendment right to be free from unreasonable searches. The Court held that the search was reasonable under the Fourth Amendment.

The U.S. Supreme Court has given great weight to a school's need to maintain security in order to create an "environment in which learning

can take place.” School officials have more leeway than the police, and do not have to have probable cause to search you – they usually need individualized reasonable cause. This might be overhearing you or someone who knows you talking about you doing something illegal, someone telling on you, the smell of drugs or alcohol on you, or a dog sniff alert. Just because school officials suspect one student of doing something illegal, they can’t search all students. *School officials should never strip search you. If you think this might happen, ask to call your parents or another adult you trust immediately.*

School lockers are different. Some states require school officials and police to have reasonable suspicion before searching a student’s locker, but other states say the lockers belong to the school and can be searched. If you have a closed bag or a purse on you or in your locker, it can’t be searched without reasonable suspicion or probable cause.

Dog sniffs are different, too. A dog sniff isn’t considered a search, but it is more invasive if a dog sniffs you than your stuff, so school officials would need to have a better reason to have a dog sniff you than your backpack or purse.

In *Board of Education of Pottawatomie County v. Earls* (1992), the Court permitted public school districts to drug test students participating in competitive, extracurricular activities. Some states don’t allow random drug tests of certain students, but since the Wyoming Supreme Court issued its decision in *Hageman v. Goshen County School District* (2011), Wyoming does. Wyoming students who are involved in extracurricular activities may be required to consent to drug tests before participating.

Cell Phones

Lots of students have cell phones. Schools can make rules about when and where you can use them. Some schools may require you to keep your phone in your locker. Check your handbook to make sure you don’t violate the rules and have your cell phone confiscated.

If your phone is confiscated, school officials shouldn't search the phone's contents, including the call log, texts, emails and photos. School officials *may* be justified in searching your phone if they believe it contains evidence of a specific crime or violation of school rules. If your cell phone is confiscated and searched, and you think it shouldn't have been, call the Wyoming ACLU.

Sexting

"Sexting" is when you send nude or semi-nude photos of yourself with your cell phone, even to the Internet. The problem with sexting is that once you send out a picture of yourself, you can't take it back and you can't control what anyone else does with it. It may turn up in some places you didn't expect or want. The other problem is that law enforcement may



charge you with the crime of sharing child pornography, even if you are only sending pictures of yourself. A teen who is sexting shouldn't be treated the same as an adult who shares child pornography, but neither is a good idea.

Social Networking

You have right to express your opinions online. You should not get in trouble at school for opinions as long as you do so in a way that doesn't disrupt classes or other school activities. However, extracurricular activities are a privilege and not a right, so you could jeopardize your ability to participate if you violate the rules. Check your school's policies for school computers, email accounts, or internet access.

→ *Getting Online at School:* If you are using a school computer or email account, your school is able to monitor your online activity. Online activities that violate school policies for computer use, disrupt school activities, or violate the rights of other students may result in discipline.

Psst... What's the Password?

Generally school officials should not ask you to give them your login information or password, or force you to log on while they are present. However, school officials may be justified in searching your phone if they believe it contains evidence of a school rule violation or specific crime. If you are forced to log in or share your password and you think you shouldn't have, call the Wyoming ACLU.

→ *Getting Online at Home:* Your online activity at home is private, as long as your postings are set to private. If they are set to public, the school, law enforcement, and anyone else can see what you're posting. Find out what your privacy settings are and choose what to keep private, otherwise it may be public.

Police in Schools

There are more police or "school resource officers" (SRO) in schools than ever before. Historically, police could enter schools when they believed a crime had been or was about to be committed. They were also able to come into schools if school authorities believed it was necessary to prevent injury or property damage. Now, SROs are stationed at schools, and usually have the same power to arrest you at school as a regular police officer would away from school.

School is first and foremost a place for you to study and learn. On the surface, SROs seem like they might make a school safer, but this appearance of security comes at a price. First, SROs aren't always trained to work with teenagers and children. Sometimes they apply the same practices in schools as they do on the street. They may also target kids because of their race, because they are poor, or because of where they are from.

School officials are also more likely to refer ordinary school discipline problems to the police. School problems should be handled in the schoolhouse, not the jailhouse or the courthouse. SROs and the police should only be called as a last resort, or when there is a real risk to students' safety.

Miranda Warnings

You have probably seen the police on television or in the movies say, "You have the right to remain silent. Anything you say can and will be used against you in a court of law. You have a right to an attorney. If you cannot afford an attorney, one will be appointed for you." School officials do not have to read you your rights before they question you, but they can tell the police what you say. The police do not have to "Mirandize" you just because they arrest you, either. Miranda warnings, based on Miranda v. Arizona (1966), are only required if you are in custody and the police interrogate you. Custody means that you do not feel free to leave. Interrogation is when the police ask you questions and you may say something that could implicate you in criminal activity. The best thing to do is not to answer any questions unless an adult you trust or a lawyer is present. You can also contact the Wyoming ACLU.

It's Your Business! Privacy of Student Records

Schools keep records on every student. These records include academic grades, teacher evaluations, disciplinary actions, test scores, medical and psychological reports, and sometimes other information.

The Federal Family Educational Rights and Privacy Act (also called FERPA) protects the privacy of your student records. All public schools and institutions, which receive federal funds are subject to this law. FERPA requires schools to get written permission from your parents (or you, if you are an adult or emancipated minor) before sharing your student records, with some exceptions.

Schools can share your records without your consent:

- with school officials, for a legitimate educational interest
- with schools you are transferring to
- with financial aid personnel (financial information only)
- to comply with a court order

“Directory information,” which consists of certain identifying and contact information, can also be released without your consent. Directory information may include some of the following: your name, address, phone number, email address, birth date, photo, degrees, activities, sports, honors and awards, dates of attendance, most recent educational institution, height and weight of athletes.

Opt Out

You and your parents can tell your school not to share your directory information without your permission. Ask your school for information on how to “opt out” of sharing your directory information. Your school should also give you the option to opt out of providing information to military recruiters, while still allowing this information to go to educational and job recruiters.

FERPA also gives you and your parents the right to see your records, with some exceptions. Certain records may be withheld from you and your parents: notes from a teacher not shown to anyone except a substitute teacher; school security information if it is kept only for security and not shown to others; records of your postgraduate activities; personnel records of school employees; and the records of a school where you applied but never attended. If you are an adult or emancipated student you may be denied access to psychiatric records, recommendation letters, and parental financial records.

FERPA requires each school to prepare a statement every year, which explains the procedure for looking at your school records. If you want to

see your records, ask your school for a copy of the policy. Schools are required to allow you to see your records, but are not necessarily required to make copies of your records for you. If they do, they may charge you a fee for copies.

Sometimes there may be information in your student records that is incorrect or misleading. The law provides a way for parents and eligible students to change or eliminate incorrect or misleading records. First, you or your parents should request the change in writing. Keep a copy of your request! If the school denied your request, you can ask for a hearing and an explanation, and present your side of the story. If the school still disagrees with you, they don't have to change your record, but they do have to include a statement explaining why you think the records are wrong. Every time the school releases your records to someone, it must include a copy of this statement.

A-B-C Follows 1-2-3! Discipline & Due Process

When you go to school, you are responsible for following your school's written rules. Schools are required to make rules, print them and share them with you. Schools must also establish written discipline procedures. Schools can't make up any rules they want, though. The rules must be reasonable and be logically related to the school's legitimate interests, especially education and safety. They must also respect your right to free expression and freedom of religion, along with other fundamental rights.

Before school officials discipline you, you have the right to due process, including notice and a hearing. First, the school has to tell you what the rules are. Second, if school officials think you broke the rules, they have to tell you

Due process includes:

- the right to know what the rules are
- the right to notice of violations of school rules
- the right to a hearing

what you did and what rule you broke. This is called *notice*. Then, you have to be able to tell your side of the story. This is called a *hearing*.

At the beginning of the school year, schools usually hand out student and/or parent handbooks. A lot of your school's rules are in the handbook. There are usually more policies and procedures than what is in the handbook, though. You can probably look up your school's policies online, or you can ask your principal or superintendent for a copy.

Both school officials and students sometimes act out in anger, and your punishment may be imposed in an angry situation. You might think the punishment is unfair, either because you disagree about what actually happened, or because you think the punishment is too harsh. You and your parents can ask school officials to reconsider a decision. When you do, make sure you understand not only your own point of view, but the school's point of view, too.

Responding to a disciplinary decision?

- Gather information
- Come up with a plan
- Meet with school officials

Gather Information

Try right away to write down the names of people you talk to or meet with about your discipline, and what they say. Make sure you keep copies of all emails and letters between you, your parents and school officials.

→ *What happened, in your own words?*

Think about what happened and why. Do you think you broke a rule? If not, then why? If you do, did you have a good reason? Were you reacting because someone was bullying you? Were you having some other problems at school that upset you?

→ ***What has the school accused you of doing?***

Ask school officials what they think happened. If you think they have the wrong impression, ask if someone else who saw what happened can help you explain. Witnesses might be other students, teachers, school staff, or parents.

→ ***What rule does the school say you broke?***

The school should be able to identify specific rules for you, either in the student/parent handbook, or in school and district policies.

→ ***What punishment does the school want to impose?***

Punishments range from detention, to suspension, to expulsion. Some schools may also impose community service or other penalties. In cases of emergency, school officials can immediately remove you from class or suspend you. This is usually if you are putting other people or property in immediate danger, but you should check your student handbook and school policies for specific violations. If you are removed immediately for any of these reasons, school officials must notify your parents, guardians or custodians within 24 hours. Within 72 hours, you must be given a chance to tell your side of the story. In Wyoming, schools are usually, but not always, limited to suspending you for up to ten school days, and expelling you for up to one year.

The severity and length of the punishment must fit the rule violation. You should never be suspended or expelled the first time you break the rules, unless it is a very serious violation.

Disciplinary records should not be disclosed to colleges and universities. Schools can send your disciplinary records to a new school you transfer to, though, without your consent.

→ ***Has the school referred your case to the police?***

If the school has contacted the police or a prosecutor about a discipline incident, you should try to talk to an attorney immediately. If you go to court, ask the judge if the court can appoint an attorney for you. An

attorney can help you figure out what your rights are, protect your rights, and work with you to come up with a plan to respond to possible school discipline and criminal issues.

You may decide you just want to get things over with and plead guilty, but the consequences can follow you for the rest of your life. It's better to at least talk to an attorney, and then decide what you want to do. You can also contact the Wyoming ACLU.

Come Up with a Plan

→ *What are you asking for?*

Do you want the school to reverse the discipline and remove it from your record, or do you want a shorter or lighter punishment? You might agree with the punishment, but ask the school to accommodate your work schedule or your family's obligations. You can offer to apologize, to perform community service in school, or to seek counseling in exchange for a reduced punishment. Finally, you may want to ask for a change in teachers or classes if you aren't able to get along.

If you tell school administrators what you want them to do, it will be easier for them to help.

→ *Why should the school agree with you?*

School officials might be willing to go along with your request for many reasons: you are innocent, the rule you are accused of breaking is illegal or invalid, the punishment is overly harsh or unreasonable, you were unfairly singled out based on your gender, race or national origin, the school failed to respect your due process rights before punishing you, or even because you are sorry and you are willing to apologize.

Meet with School Officials

You and your parents can talk to school officials and appeal their decision if you disagree with it. Remember, most schools are trying to do the right thing, even if they sometimes get things wrong. Just like you, they want to be treated with respect, even if sometimes you don't feel like they deserve to be.

Sometimes you only have a few days to challenge a disciplinary decision. Read your school's policies and procedures right away to learn how long you have. If you miss a deadline, you may miss your chance to advocate for yourself.

There are usually four steps to challenge a disciplinary decision.

- *Meet with the principal and any teachers or staff who were involved*
- *Meet with the superintendent*
- *Meet with the school board*
- *Appeal to your county's district court*

If English is not your or your parents' or guardians' first or best language, ask the school to provide a translator.

Free for All! The Right to a Free Public Education

Every child in Wyoming between the ages of 5 and 21 has the right to a free public education. Every school must meet basic educational and program requirements. With some exceptions, if you are between the ages of 6 and 16, you are also required to go to school.

Schools in Wyoming may ask for proof of your age and proof that you reside in the school district. Proof of your age may be a birth certificate, a

hospital birth record or a baptism certificate. Proof of residency might include a lease, utility bills, a pay stub or a driver license.

Schools may also ask for a record of your vaccinations, unless your parents can show that you have should be exempt from them for medical reasons or personal beliefs.

Students with Disabilities

If you are a student with a mental, physical or learning disability, you have the same right to an education as every other student. Federal laws, including *Section 504* and the *Individuals with Disabilities in Education Act*, require schools to provide you with a free and appropriate education. Schools must develop an Individualized Education Plan to determine what is appropriate. If your parents think you need special education services, they should ask for a copy of school policies and procedures. You may also want to contact *Wyoming Protection and Advocacy* for more guidance on your rights.

Discipline of Students with Disabilities

Students with disabilities are entitled to special protections. If you have a disability, you might be receiving or be eligible for special education services. Make sure you and your parents ask for school policies and procedures for disciplining students with disabilities. You should also consider contacting a special education advocate, like Wyoming Protection and Advocacy.

Homeless Students

You might be homeless because you lost your home, your parents can't afford a home, it's not safe for you at home, or you are waiting to be placed in a foster care. Federal law requires schools to immediately

enroll homeless students, even without some of the documents students must normally provide.

Homeschool Students

Wyoming allows your parents or another adult to teach you at home, as long as they cover all the basic skills taught in public schools and required by the state. Home-school teachers must submit a curriculum each year to show that their lessons comply with Wyoming's requirements.

Immigrant Students

Schools cannot refuse to admit you because you are an immigrant. Schools cannot require you to provide a social security number, green card or other proof of your immigration status in order to enroll. Schools should also avoid asking you questions that might discourage you from trying to enroll, and are prohibited from disclosing information about your immigration status.

Bilingual Students

Even if English is not your first language, you have a right to an education just like every other student. The school's goal is to increase your ability to speak and write in English, and eventually transfer you to classes taught solely in English. Schools should have bilingual instruction to help you transition, and should include subjects like social studies, math and science.

If your parents do not speak English, ask the school for a translator so they can talk to teachers and school administrators.

Additional Resources

American Civil Liberties Union of Wyoming
www.aclu-wy.org

American Civil Liberties Union
www.aclu.org

Stand Up with the ACLU (Youth Activists)
www.aclu.org/standup

Wyoming Department of Education
edu.wyoming.gov

Wyoming State Statutes, Title 21: Education
www.legisweb.state.wy.us/statutes/statutes.aspx?file=titles/Title21/T21CH2.htm

It Gets Better Project (LGBTQ Youth)
www.itgetsbetter.org

Don't Filter Me Campaign (School Internet Filters)
www.aclu.org/lgbt-rights/dont-filter-me

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Schools are places for growing, inquiring minds. The process of growth often includes questioning or rejecting established values, which can be uncomfortable for school authorities. On the other hand, the educational environment requires a certain degree of discipline and order. In many respects, these same tensions are present in American society as a whole.

It is your right and your responsibility to stand up for yourself so that when civil liberties issues arise in your school, they will be resolved in a way that respects constitutional principles. Your rights, and those of your fellow students, will only last as long as you are willing to defend them.

For more information on Wyoming students' rights, please contact:

ACLU of Wyoming
P.O. Box 20706
Cheyenne, WY 82003
307.637.4565
www.aclu-wy.org

KNOW YOUR RIGHTS

A Guide for Public School Students in Wyoming



Portions of this guide were adapted from
ACLU affiliates around the country.