



LEGISLATIVE ALERT

Oppose Attacks on Students' Right to Freedom of Association and Privacy SB2079 (Crowe)/HB868 (Mumpower) and SB1133 (Bunch)/HB905 (Hill)

ACLU-TN opposes the pending bills - SB2079 (Crowe)/HB868 (Mumpower) and SB1133 (Bunch)/HB905 (Hill) which require parental permission before students can join school-sponsored clubs. We are concerned about the serious consequences of, and the potential constitutional problems with, these bills. Our concerns focus on the heavy administrative burden created; the potential institutional liability implicated; the negative consequences directed toward at-risk minority students; the discouragement of student participation in important extracurricular activities; and the fundamental constitutional rights it infringes.

Please contact your legislators (highlight bills -and tell them to vote NO. on the bills requiring parents to give permission for their children to participate in school-sponsored clubs.

These bills would create a huge administrative burden for teachers and school administrators: Under these bills, schools would be required to compile, update, track, and disseminate information about school clubs and activities. More burdensome, however, is the requirement that teachers and schools track permission slips for nearly all extra-curricular activities and events, except competitive interscholastic activities.. For example, under this bill, a student would need a permission slip not just to be a member of the drama club, but also to attend a play being put on by the drama club. How can the school and its teachers be expected to collect permission slips from every student wishing to attend the performance? Another example of the administrative burden: if the student counsel were to sponsor the school prom, no student could attend without having a permission slip from his or her parent. The requirement is unmanageable.

These bills would create liability for the schools and teachers: The likelihood of administrative mishandling of the permission slips is inevitable, Mistakes in administration could lead to liability. For example, barring a student from an event or club after a permission slip was provided could lead to a lawsuit. Or, allowing a student to attend a club without a permission slip could create liability for the school or the teacher. A teacher or school could also be held liable if they accepted a permission slip, which unbeknownst to them, had a forged signature.

Students without active parents should be encouraged to participate, not barred from joining clubs: These bills would bar the very students who we should be encouraging to join clubs. A student who does not have an ideal household may not be able to obtain a permission slip. They could have trouble getting a permission slip due to busy parents, chaotic households, or simply because they, themselves are an unorganized adolescent. But, they could also have neglectful parents. Students with parents who are not actively participating in the students' lives and these are the students who most need to be participating in after-school activities. Instead of barring these students from having positive activities to join after school, we should be helping them become active participants. Parents who want to be active in a student's life will be active - with or without a permission slip.

These bills would discourage teachers from volunteering as club sponsors: Teachers will be discouraged from serving as faculty advisors for clubs with the additional paperwork and policing requirements that these bills entail. Because teachers will be required to police the membership and participation of every student at every meeting, teachers will undoubtedly be less willing to serve in these unpaid positions. In addition, the creation of liability would deter teachers from volunteering to sponsor clubs, essentially decreasing the number of clubs and activities a school can offer. In turn, this decreases the opportunities for students to participate in educational and social clubs and activities.

These bills target the most at-risk and disenfranchised students: These bills will have a devastating effect on the most at-risk and disenfranchised students. Students who are struggling with, or because of, their sexual orientation have found occasional respite from hostility by creating clubs that center on support and education about equality. These clubs often exist to counter a hostile environment, both inside and outside of school. Gay students, who are bullied by other students and/or perhaps rejected by their parents, have formed gay-straight alliance(GSA) clubs. Because the Equal Access Act prohibits schools from banning these clubs, supporters of this bill are trying a more creative approach to stop the clubs – prevent students from joining. The sponsors know that the students who need the emotional support of the clubs are the students who likely cannot get a permission slip from their parents.

These bills infringe on students' fundamental constitutional right to freedom of expression or association. The right of expressive association is among the fundamental rights identified by the United States Supreme Court and students do not “shed their constitutional right to freedom of speech or expression at the schoolyard gate.”