

YOUTH & STUDENTS

Young people's rights exist, but often go unrecognized because minors do not have the resources to assert them. The United States Supreme Court has stated, "Constitutional rights do not mature and come into being magically only when one attains the state-defined age of majority."

POLICE AND CRIME

Young people can be arrested for virtually all the reasons an adult can, plus other offenses as well. Police can arrest a juvenile if they have reasonable grounds to believe:

- They have committed a delinquent act;
- They have run away from home; or
- They are in need of supervision, pursuant to a court order.

A young person has rights upon getting arrested:

- They do not have to answer any questions, except to supply their name, age, address and their parents' names;
- They have the right to call their parents or lawyer or both. If he or she does not have a lawyer, they have the right to ask for one;
- They have the right to stop answering questions at any time or wait until the lawyer arrives before continuing; and
- They must be informed that anything said may be used against them in court.

Juveniles who are alleged to be delinquent and have been detained have a right to a detention hearing within 72 hours. Juveniles who are alleged to be unruly and have been detained have a right to a detention hearing and a probable cause determination within 24 hours and an adjudicatory hearing within 72 hours (TCA §37-1-114). Juveniles should be detained at a juvenile facility, not an adult jail.

Juvenile court proceedings are not criminal and so a finding of delinquency is not a criminal record. Juvenile court records are kept confidential, but certain people can have access to them under certain circumstances. These records *may* be expunged upon the juvenile's 18th birthday provided that he or she has met certain conditions. However, juveniles 13 and above may be tried as adults in certain circumstances and if convicted, would have a criminal record.

Just as with adults, the police are not allowed to search juveniles unless they have a warrant signed by a judge or

unless the juvenile is getting arrested. However, if police believe a juvenile has a weapon they may frisk them, and if they feel a weapon they may search them. A juvenile in a car stopped by the police has the same rights as an adult.

Juveniles do not have to consent to a search, but we do not suggest that they resist.

CONTRACEPTION, ABORTION AND PREGNANCY

Any person under 18 may get an examination, treatment, hospitalization, medical or surgical care for venereal disease, pregnancy or drug abuse without notification or consent of the parent. Doctors may prescribe contraceptives, medication or devices to persons under 18 who do not have parental consent. However, a private physician can refuse to treat or write a prescription to anyone.

Tennessee requires that a minor get written parental consent or court permission before obtaining an abortion. However, physicians, hospitals, and other persons have the right to refuse to perform abortions.

MARRIAGE

In Tennessee, a person must be 18 or older to marry without permission. A person can get married as young as 16 with parental permission. No one under 16 can get married without a court order (TCA § 36-3-105).

STUDENTS - SCHOOLS

School Records

Under the 1974 Family Educational Rights and Privacy Act (known as the Buckley Amendment), schools that receive any federal funding must make student records available for viewing by parents (or legal guardian) or the students themselves if they are 18 or over. However, some information cannot be accessed, including psychiatric reports and other non-educational records of counselors, doctors, social workers, etc. Schools must respond to requests to view records within 45 days, and may charge a reasonable fee for copying costs. Schools can release a student's records to school officials or teachers or those with a legitimate educational interest in seeing the records, such as when a student transfers schools. Students and their parents can challenge inaccurate or unfair information by meeting with school officials and making a request that the records be changed. If the school refuses, the student can request a hearing before an impartial third party.



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Free Speech

A famous Supreme Court decision called *Tinker v. Des Moines School District* held that students do not shed their rights to free speech at the school house gates. Students have a right to free expression and association. This means students can express themselves orally, in writing, or on leaflets, buttons armbands or T-shirts. However, because schools have a valid interest in maintaining school discipline, they can regulate speech that would constitute a “substantial and material disruption” to the operation of the school. So, for example, students may hold a protest rally, but they cannot block the front door, and they can probably be stopped from using vulgar language in school. School authorities can exercise a little more control over school-sponsored publications, like a school paper, under a Supreme Court decision called *Hazelwood v. Kuhlmeier*, if they do so in a way that is “reasonably related to legitimate pedagogical concerns.” In the *Hazelwood* case, the court allowed the principal to edit and remove stories about teen pregnancy and divorce, from the school paper, that he thought weren’t appropriate for students. The ACLU has represented many students whose free speech rights have been infringed upon at school.

Dress Codes

In general, state and federal courts have recently given schools a great deal of latitude to enact dress codes as a cursory response to the rise of violence in schools. Cases such as *Wallace v. Ford*, 364 F.Supp. 156, 161 (1972), and *Bivens v. Albuquerque Public Schools*, 899 F.2d. 556 (D.N.M. 1995) have set precedents that instruct courts to regard a student’s dress not as a First Amendment issue, but as an element that can be “disruptive to the educational process” (*Wallace*, 164). Schools can impose reasonable dress codes, as long as they apply uniformly and are not viewpoint based (i.e., it’s OK for a school to prohibit any shorts more than two inches above the knees, but it’s not OK for a school to prohibit T-shirts that advocate political beliefs, like the support of a candidate or idea.) The school can also impose reasonable hair codes as long as they aren’t discriminatory. Most recently, courts in South Carolina, Connecticut, Florida and Louisiana have upheld even the strictest of dress codes. Some of these policies include provisions that allow a limited range of colors and styles, exclude an opt-out option for religious clothing, and provide minimal financial aid to families in need. ACLU believes in the rights of students to express themselves freely as long as they do not impose on the rights of others.

Pledge of Allegiance

Students cannot be required to say or stand for the pledge of allegiance. Students have a right to remain silently seated during the pledge.

Equality

All students, even those in the country without documentation, have the right to go to public school. A public school cannot discriminate based on race, gender, religion, sexual orientation, ethnicity or disability. Boys and girls must be provided with equal athletic opportunities, although courts have found separate teams OK as long as there are equal opportunities for sports participation. Schools cannot keep girls who become pregnant from attending class, graduation, extra-curricular or any other activity. Further, students who are HIV positive have the same rights as any other student and are protected against discrimination.

Disability

Public schools cannot deny education to a student because of a disability. Schools must provide disabled students with programs reasonably calculated to enable the child to receive educational benefits in the least restrictive setting. Only in extreme circumstances may schools be unable to accommodate a student’s disability in any regular or special classroom setting.

The student has a right to a special education evaluation, following which educators must prepare an Individualized Education Plan (IEP) for the student if the student is found to have a disability. This lays out any accommodations necessary to afford him/her an education. For example, a deaf student may be entitled to a sign language interpreter. There are also procedures in place to appeal any special education decisions with which a student disagrees. Parents who are dissatisfied with the evaluation or the programs recommended by the IEP have a right to a hearing.

Privacy

Students have fewer privacy rights in school than out. Students have a right to remain silent when questioned by a school official, and can ask to see their parents or a lawyer before they answer any questions. However, the Supreme Court has ruled that schools, unlike the police, can search students without a warrant when they have “reasonable grounds for suspecting that the search will turn up evidence that the student has violated” school rules or the law. School officials must have a good reason to believe the particular person committed the act, and cannot search people because they think “someone” did it. For example, they cannot search all students because they think some students are selling drugs.

Drug tests are “searches,” and schools should have a reasonable belief the particular student is using drugs before subjecting him/her to a drug test. Nevertheless, the U.S. Supreme Court has held that students in extra curricular activities can be tested for drugs, regardless of individual suspicion, in part because the activities are extracurricular and voluntary. However, Tennessee law forbids this practice and



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only allows drug testing of students if there is reasonable suspicion of drug use.

Students have a right to privacy in their decisions about their bodies, and the school cannot make or prohibit a student from obtaining an abortion. Likewise, a school cannot force a student to take an HIV test.

Discipline

Students have the right to have discipline imposed fairly. If students are found guilty of something, the punishment cannot be greater than the misconduct. This means that the school cannot suspend a student for a minor infraction, or for something for which another student only received detention. However, the school can suspend a student for willful and persistent violation of school rules, truancy, violence or threatened violence against school staff, vandalism, weapon possession, and using vulgar or profane language. Students cannot be suspended until they have been informed of the nature of their misconduct, questioned about it, and given a chance to explain their behavior. Any student being suspended for more than 10 days has the right to appeal the decision at a hearing.

Religious Freedom

Student prayer in school

The First Amendment guarantees that people have the right to practice their religion, or no religion, and this right applies to students too. Schools cannot penalize students because of their religious beliefs. Students must be allowed to wear yarmulkes, to pray individually before lunch, etc. Students have the right to pray whenever they want to and to express their religious viewpoints, as long as it doesn't disrupt classroom instruction or other educational activities and doesn't infringe upon the rights of others.

Promoting or Teaching Religion in School

While students individually have the right to pray, the school cannot in any way support or promote prayer. There can be no prayer over the loud speaker, no spiritual readings, even if the prayer is "non-denominational." Schools cannot teach religion in school other than addressing the influences of religion in history, literature and philosophy, and they cannot promote any religious beliefs or practices. Students may be excused from some school activities if they conflict with their religious beliefs.

Graduation Prayers

In *Lee v. Weisman*, the Supreme Court held that graduation prayers at graduation ceremonies are unconstitutional in public schools. Student-led prayer is unconstitutional too, even if the students vote to do it. Students can, however, choose to have an alternative event that includes prayer, like a

baccalaureate, but it can't be sponsored by the school and must be held off school grounds.

Student Bible Clubs

Student-led Bible clubs are OK under the following conditions:

- The school **must** make its facilities available to **all** student groups on an equal basis;
- School officials can't be involved in organizing or running the club;
- The activity must take place during non-school hours; and
- Giving out Bibles or other religious books during the day is unconstitutional, even if teachers aren't the ones distributing them.

RESOURCES – NATIONAL AND STATE

ACLU-TN provides the following list of resources for informational purposes only. ACLU-TN does not endorse any of the organizations listed.

National Organizations

Big Brothers Big Sisters of Middle TN

One Vantage Way, Suite C250

Nashville, Tennessee 37228

Phone: (615) 329-9191

Fax: (615) 321-5913

Email: info@bbbsmt.org

Youth mentoring organization seeking to help youth reach their potential.

Children's Defense Fund

25 E Street, NW

Washington, DC 20001

Phone: (202) 628-8787 or (800) 233-1200

The Children's Defense Fund is a multi strategy advocacy organization, comprised of lawyers and non-lawyer professionals working on issues in child health, education, adolescent pregnancy prevention, early child development, child welfare, child support enforcement, income maintenance, and housing discrimination against families and children.



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[National Center for Youth Law](#)

405 14 St., 15th Floor
Oakland, CA 94612-2701
Phone: (510) 835-8098
Fax: (510) 835-8099

NCYL provides specialized assistance on youth law matters including abuse, neglect and termination of parental rights, foster care, child and adolescent with AIDS, homeless children, housing discrimination against families with children, public benefit programs, and problems of children and adolescents who live in public institutions. NCYL provides backup support in litigation for legal service attorneys and private attorneys representing eligible clients.

[National Information Center for Children and Youth with Disabilities](#)

P.O. Box 1492
Washington, DC 20013
1-800-695-0285

Information and referrals for specific disabilities, special education, family issues, other disability organizations, and transitions to adult life.

[U.S. Department of Education Office for Civil Rights](#)

400 Maryland Avenue, SW
Washington, D.C. 20202-1100
Phone: 1-800-421-3481
Fax: (202) 245-6840
TDD: (877) 521-2172

Promotes equal access to education and offers help to students facing discrimination.

U.S. Department of Education Office for Civil Rights

61 Frsyth Street SE
Atlanta, GA 30303
(404) 562-6350

[YouthSPEAK International](#)

Non-profit organization providing people aged 13-25 a platform to voice their views on local, national, and international issues and to share these views with governments and non-governmental organizations.

HOTLINES

- **Girls and Boys Town National Hotline**
(800) 448-3000
Provides crisis intervention, information and referrals for children and families.
- **KID SAVE**
(800) 543-7283
Provides information and referrals to public and private services for children and adolescents in crisis. It refers to shelters, mental health services, sexual abuse treatments and family counseling.

- **NineLine**
(800) 999-9999
Provides help to youth regarding family conflicts, relationships, sex, homelessness, running away, drugs and alcohol, abuse, STDs, depression, and other issues.
- **Teen Hotline**
(800) 637-0701
The Teen Hotline refers teens to alcohol and drug treatment.
- **NEO Teen Helpline**
(800) 272-8336
Provides help to youth regarding family life, grief and loss, suicide, abuse, drugs and alcohol, sex, and other problems.

State Organizations

[Boys and Girls Club of Chattanooga](#)

P.O. Box 11567
Chattanooga, TN 37401
Phone: (423) 266-6131
Fax: (423) 756-5781

[Boys and Girls Club of Greater Memphis](#)

44 S. Rembert
Memphis, TN 38104
Phone: (901) 278-2947
Fax: (901) 274-5460

Assists youth of all backgrounds in developing self-esteem and character. Professional staff and volunteers help youth become responsible citizens by providing quality educational, recreational, social and cultural programs. See web page for locations of local chapters.

[Boys and Girls Club of Middle Tennessee](#)

P.O. Box 110268
Nashville, TN 37222
Phone: (615) 833-2368

[Boys and Girls Club of the Tennessee Valley](#)

John D. Lee Administrative Building
220 Carrick Street, Suite 318
Knoxville, TN 37921
Phone: 865-544-3825
Fax: 865-546-8507

[Oasis Center](#)

1704 Charlotte Avenue, Suite 200
Nashville, TN 3720
Phone: 615-327-4455
Fax: 615-329-1444
Crisis Hotline: 1-866-975-FREE



P.O. Box 120160, Nashville, TN 37212
Tel: 615.320.7142

One-in-Teen Youth Services

P.O. Box 40886

Nashville, TN 37204

Phone: (615) 321-7288 or 1-877-663-4686

Email: info@one-in-teen.org

Offers education, social, and support programs for lesbian, gay, bisexual, transgender, and questioning youth between the ages of 14 and 21.

Students Taking a Right Stand (STARS)

2416 Hillsboro Road, Suite 200

Nashville TN 37212

Phone: (615) 279 – 0058

Through assemblies, group or individual counseling sessions, and classroom presentations, STARS helps schools deal with substance abuse, violence, bullying, harassment, family conflicts, divorce, loss, grief, and other issues threatening the psychological, emotional, and academic well-being of students.

TN Youth Advisory Council

Oasis Center

1221 16th Avenue South

Nashville, Tennessee 37212

Phone: (615) 327-4455

A group for foster youth by foster youth that works to improve the lives of youth and the foster care system.

Youth Encouragement Services

521 McIver Street

Nashville, TN 37211

Phone: (615) 315-5333

Fax: (615) 315-5344

Email: info@youthencouragement.org

Provides tutoring, job skills training, summer camp, a basketball league, and other recreational and cultural activities to inner city youth in Nashville.



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