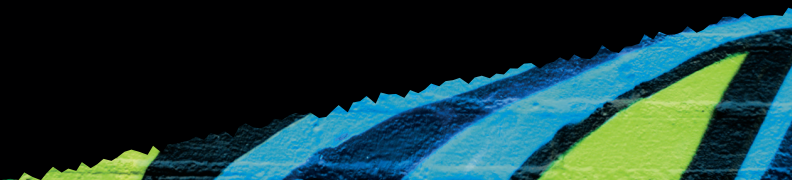




The ACLU of Arizona is the state's premier guardian of liberty and is committed to protecting students' rights. For more information on the rights guaranteed to you by the U.S. and Arizona Constitutions, visit: [acluaz.org/myrights](https://acluaz.org/myrights)



# know your rights

A Manual for Arizona Public School Students



**ACLU**

AMERICAN CIVIL LIBERTIES UNION  
of ARIZONA

FOUNDATION



## ***The ACLU of Arizona***

*The ACLU of Arizona is an affiliate of the National ACLU, which has more than 500,000 members. Our mission is to defend and protect the individual rights and freedoms guaranteed to all by the Constitution and the laws of the United States and Arizona. We are the state's premier guardian of liberty, working daily in the courts, Arizona legislature and communities statewide. The ACLU is committed to protecting students' rights, and we have defended many young people whose rights were violated by their schools.*

### *Acknowledgement >*

*The ACLU of Arizona would like to thank Molly Weinstein for her outstanding research on this handbook and commitment to civil liberties.*

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# Don't just know your rights... fight for them!

**Act Now >** Get a copy of your school's Code of Student Conduct. Learn from this booklet what rights you have, and ensure those rights are protected by the school. Don't wait until your rights are violated to speak up. Build relationships with school officials now to discuss student rights. Find allies in other students, teachers, counselors, parents and community leaders.

**Document and Organize >** If you feel your rights have been violated, write a statement with details of the incident, including: who, what, when and where. Get witness statements. Furthermore, make sure you know the other side's arguments too. Make sure to read carefully and copy all relevant school letters, notices, rules or policies from the school. Make use of school grievance procedures and respond by all deadlines to ensure your rights are preserved.

**Start From the Ground Up >** If your problem is with a teacher, school official or security guard, go to the principal first. If your problem is with the principal, go to a school board member or the superintendent. If your problem is with a policy, you may have to go to the school board. If your problem cannot be resolved at the school level, contact an advocacy group or attorney to seek how you can defend your rights.

## How to use this handbook

This guide serves to provide general information on students' rights in Arizona state public schools. This guide does not address the rights of students in private schools, tribal schools, public colleges or universities.

**This information is not legal advice. If you believe your rights have been violated, you should contact an attorney to get advice about your individual circumstances. A good place to start is lawyer referral service of the State Bar of Arizona at <http://www.azbar.org>.**

The rights described in this handbook are protected by different sources such as the U.S. Constitution, the Arizona Constitution, the Arizona Revised Statutes, and the court system.

**U.S. Constitution and the Bill of Rights >**The highest law in our land is the U.S. Constitution, which has amendments known as the Bill of Rights. These have an impact on your daily life as a student. Public schools must follow the U.S. Constitution and the rights it provides to you. For more information, visit <http://www.law.cornell.edu/constitution>.

### **Arizona Constitution and Arizona Revised Statutes >**

The Arizona Constitution cannot give you fewer rights than the U.S. Constitution, and in some areas the courts have ruled that it gives you more. The Arizona statutes regulate the state's public schools. You can view the Arizona Constitution and Revised Statutes on the web at <http://www.azleg.gov/>.

**Courts >** Sometimes, students who feel their rights have been violated take their case to court. A case may be resolved in a state or federal court or it may go all the way to the highest court, the U.S. Supreme Court. The decision becomes "law" and can have the same effect as the laws made by the legislature.

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## I. Freedom of Expression

**US Constitution / First Amendment** > “Congress shall make no law... abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.”

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

The First Amendment guarantees our right to free expression. This means that the government can't forbid us from having certain beliefs or stating our opinions. Expression includes spoken or written words; art and music; messages on buttons, t-shirts and the internet; how you dress; participation in protests, actions, clubs and organizations; refusing to salute the flag; and symbolic speech like armbands or badges.

### **Do I have a right to express my opinions and beliefs in school?**

Yes. Students do not leave their First Amendment rights outside the schoolhouse door. However, expression may be limited in some circumstances to prevent disruption to classes and activities.

**What the courts say . . .** In 1969, in a case called *Tinker v. Des Moines School District*, the United States Supreme Court ruled that students could not be punished for wearing black armbands in protest of the Vietnam War. The case affirmed the principle that students have a right to express their opinions in any form they choose, so long as they do not disrupt or interfere with school activities.

**My friend gave a speech last week which had sexual innuendoes in it. We thought it was funny, but she got suspended anyway. Can the school do that?** Yes, the school can punish your friend for using sexual innuendoes in her speech. Schools can stop students from using lewd, profane, vulgar, or offensive language at school assemblies, classrooms, and even in the halls.

**Can students bring in speakers to talk about political issues?** Yes. In general, if the school provides students an opportunity to bring in guest speakers, it cannot prohibit political speakers even if their views are controversial. The school cannot require that all sides of a controversy be presented at one session.

**Do students have the right to have a rally or demonstration at the school?** Yes. Peaceful demonstrations are considered protected speech, so a school is not allowed to prohibit them unless they disrupt school activities. School authorities cannot prevent students from participating in a demonstration that is held off campus or after school hours.


**Can students collect money for political causes or fund raise at school?** Collecting money for a cause is generally recognized as a part of your right to freedom of speech, so it should not be completely prohibited at school. However, some courts have ruled that students can't collect money for political causes on school grounds.

**You've got to fight for your right!** In 2008, the ACLU of Arizona won a case on behalf of Dan Frazier, who stood up for his right to freedom of speech by challenging a law that made it a crime to sell anti-war t-shirts that had the names of troops killed in Iraq.

**Do students have the right to walk out of school as a form of protest?** Regular school attendance by a student is required in Arizona, and the school can take action against you if you miss school and the absence is unexcused, even if you are participating in a political activity. However, school officials cannot punish you for missing school to participate in a political protest more harshly than they punish students for missing school for any other purpose.

**Do we have to say the Pledge of Allegiance?** No. The courts say that students have the right to sit silently during the flag salute and Pledge of Allegiance. As long as you do not disrupt the pledge, you may refuse to participate.





**Do I have a right to participate in a day of silence?** Yes. You may participate in a “day of silence” as a way of expressing solidarity with a cause. However, school officials can require you to speak and participate during class. You may remain silent in the halls and between classes.

**My school principal says he has to review the student newspaper before it’s published to make sure it puts him in a “good light.” Can he do that?** No. The principal may only censor the student newspaper for a valid educational reason. School officials must show that the censorship is “reasonably related” to an educational purpose and that the material is inconsistent with the goals or mission of the school.

**Can the school stop me from wearing certain kinds of clothes in school?** While the way you dress is a form of self expression, the courts typically don’t interfere with the authority of school officials to impose dress codes. Officials usually justify dress codes by saying that they are necessary to prevent distraction or disruption, to prevent gang activity, or to promote safety. Under Arizona law, local school boards may also require students in their district to wear uniforms and must assist in buying these if necessary. You may have a right to deviate from the dress code for religious or medical reasons. Prohibiting certain types of messages on clothing, while allowing others, may violate students’ rights to free expression.

**Can a school say I can’t wear my hair in a certain way or wear a piercing?** Yes. Schools can say that you can’t wear your hair in a certain way or have a beard or moustache. Furthermore, a school can prohibit students from wearing a nose ring in school. The courts have ruled that grooming can be regulated by the schools, because these regulations involve “conduct” and not constitutionally protected speech. However, if you wear your hair a certain way or keep a beard for religious reasons, the school should make an accommodation for you.

**I wrote a story for the school journal about teenage pregnancy, but after I turned it in, my teacher deleted all the parts that mentioned contraception because she found them to be “inappropriate.”**

**Can she do that?** If the school newspaper is sponsored by the school, administrators can review the articles before publication. In order to exclude material, the school must have a good educational reason as to why it’s “inappropriate” or “harmful.” Some courts have allowed schools to censor controversial topics like teen pregnancy, alcohol abuse, or sex education for being “inappropriate.”

**Can school officials stop me from publishing an underground zine?**

No. The First Amendment protects your right to publish an unofficial or underground newspaper or magazine. School officials can’t ban your underground newspaper or pamphlet just because they don’t like what you say in it. They also can’t stop you from passing it out at school unless you are doing so in a way that disrupts school activities.

**Are school officials allowed to take books off the school library shelves or out of classes because they don’t like their ideas or their language?**

No. School officials cannot remove books from school library shelves or classrooms simply because of the ideas they contain. School officials are only allowed to remove books from classrooms or reading lists if the language is inappropriate or because the books don’t advance the school’s values or curricular goals.

**I created a Web site at home that pokes fun of a teacher and I got suspended for it. Can they do that?** No. Courts have ruled that public school students have the right to create and maintain a Web site outside of school—even if the site is critical of a school official—so long as it would not cause a disruption at school if students were to access the site.

**My school installed filters that limit where I can go on the Internet on all library computers. Can they do that?**

Yes. School officials can use filters to prohibit access to materials that are illegal for minors to obtain. However, they cannot be used to censor viewpoints and they should take into account the maturity level of the students using the computers. For example, high school students should have access to Web sites concerning gay and lesbian issues, contraception, abortion, and the prevention of sexually transmitted diseases.

## II. Freedom of Religion

**US Constitution/First Amendment** > “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof...”

**AZ Constitution** > “Perfect toleration of religious sentiment shall be secured to every inhabitant of this state, and no inhabitant of this state shall ever be molested in person or property on account of his or her mode of religious worship, or lack of the same.”

The First Amendment says that everyone in the United States has the right to practice his or her own religion, or no religion at all. The government generally cannot interfere with this right and it cannot discriminate against you on the basis of your religion.

**Can school officials sponsor prayers or other religious exercises at school?** No. School-sponsored prayers and religious readings (e.g., the New Testament or Qur’an) are unconstitutional because they go against a student’s right to practice her own religion or none at all.

**You’ve got to fight, for your right!** In 2007, the ACLU of New Mexico successfully settled a religious discrimination case on behalf of four football players against New Mexico State University. The lawsuit claimed that coaches favored Christian players and disparaged the Muslim players’

**Can our valedictorian lead prayers or make religious references at our graduation ceremony?** Yes. A student has the right to pray or make religious references at a graduation ceremony if the designated student speaker was selected based on neutral criteria (e.g., the person with the highest grade point average). A speaker may include a brief religious reference in a public address. However, school authorities cannot allow a religious leader or a student to give a prayer at school sporting events, nor ask a student to do so in a group setting.

**Can teachers provide for a moment of silence?** It depends. If the purpose or effect of the moment of silence is to promote religion, then it is unconstitutional. If the purpose has nothing to do with religion (e.g., to think about world peace), then it is probably okay. This may require analysis of the history of the practice at your school.

**Can students pray during the school day or hold prayer rallies outside of the classroom?** Yes. The First Amendment protects students' right to worship or not as they choose. You have the right to pray during the school day, so long as you do not disrupt school activities or try to force other students to pray with you. Students may hold informal prayer rallies on school grounds before or after school if done on their initiative. However, a school teacher or employee may not facilitate or participate in a group prayer.

**Can students hold religious meetings on school property?** The government cannot use its power to prevent you from exercising your religious beliefs. However, the school does not have to let you use its facilities to hold religious meetings unless it lets other groups not sponsored by the school use its facilities. Schools may not sponsor or endorse any religious gathering.

**May students or religious groups hand out religious materials at school?** While the school itself cannot hand out religious materials or endorse a particular religion, students have the right to bring religious texts to school for their own use or share them with friends so long as it does not disrupt school activities. For example, a student religious group may pass out a pamphlet with information about when or where it is meeting next, but it may not create a disruption.

**What the courts say . . .** In 2003, in a case called *Hills v. Scottsdale Unified School District*, Scottsdale schools were found to have violated the First Amendment by prohibiting flyers of a "commercial, political or religious nature" to be distributed at school and while allowing nonprofit organizations to distribute their literature. The Arizona Legislature passed a law requiring this as well.

**Can the school have religious programs, pageants, or religious displays?** It depends. If the overall message of a program or display is religious, then it is unconstitutional. But if the overall message is one of cultural diversity or a general celebration (e.g., the winter holidays), then it's probably okay. An important factor is whether only one religion is represented.

**A group of parents at my school want to make all students take a class on Christianity. Can the school make us take it?** No. Public schools cannot require public school students to take a course that encourages or promotes any religious belief. Schools can offer an elective religion class that is educational in nature and does not promote any particular set of religious beliefs.

**In social studies, we are reading religious passages. Is that okay?** Yes. You can study religion at school – for example, its influence on history or literature. But the school cannot assign readings or use class time to teach that one religion is better than another one, or to disparage any religion.

**My biology teacher gave us a brief presentation on the pros of creationism and the cons on evolution as part of our studies; can she do that?** No. Schools can't write their lesson plan to promote creationism, because that is a religious belief. It is also unconstitutional to require that creationism be taught in science class along with evolution since creationism is not a scientific theory nor subject to scientific methods of proof. Creationism may be part of the curriculum in other classes.

**You've got to fight, for your right!** In 2005, in an ACLU case called *Kitzmiller v. Dover*, parents of high school students successfully challenged a requirement that "intelligent design" be taught as an alternative explanation to "the origin of life." The court found that "intelligent design" is not a science and cannot "uncouple itself from its creationist, and thus religious, antecedents." The school's promotion of it therefore violated the students' First Amendment rights.

### III. Freedom Against Discrimination

**US Constitution/Fourteenth Amendment** > “No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; . . . nor deny to any person within its jurisdiction the equal protection of the laws.”

**AZ Constitution** > “No law shall be enacted granting to any citizen, class of citizens, or corporation other than municipal, privileges or immunities which, upon the same terms, shall not equally belong to all citizens or corporations.”

The United States and the Arizona Constitutions prohibit actions by school authorities that discriminate against students on the basis of race, gender, or country of origin. If you feel that you or another student have been discriminated against, you should talk to a teacher or someone outside of the school you trust and have the matter investigated and addressed.

**My teacher gives me a hard time because I’m Arab American, and he calls me a terrorist. Can he do that?** No. Teachers and administrators at your school can’t discriminate against you because of your background or based on negative racial or ethnic stereotypes. If you feel you are being discriminated against, speak to a teacher, the principal, the school board, a community organization or a lawyer.

**I wanted to try out for the boys rowing team, but the coach sent me home because I’m a girl. I’ve been rowing since I was a kid. Should I be able to try out?** Yes. Schools that receive federal funds may not discriminate against boys or girls in interscholastic, club or intramural sports programs. This means that girls cannot be denied access to most sports programs offered to boys and vice-versa.

**Title IX, Education Amendments of 1972 (Federal Law)** > “No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance . . . .”

**My teacher always makes sex jokes in and outside of class. Is that sexual harassment even though he never said it to me directly?**

Sharing unwelcome sexual jokes in class has been considered sexual harassment. The teacher’s behavior may be creating a “hostile” classroom environment and seriously interfering with your ability to learn. For a school to be held liable for teacher-student sexual harassment, a student must report the harassment to a school official and show that the official deliberately refused to take action against the harasser.

**There are two guys in school who have been bothering me for months. My parents complained to the teacher and the principal, but they did nothing. Are students protected from sexual harassment by other students?** Yes. Public schools can be held liable for failing to take action against student-to-student harassment where officials clearly knew about the harassment or the harassment is pervasive and they should have been aware of it.

**What the courts say . . .** In 1999, in a case called *Davis v. Monroe*, the Supreme Court ruled that a school district that did nothing to stop a fifth grader from being sexually harassed by a male student over the course of several months was guilty of “deliberate indifference” to student-on-student sexual harassment. In that case, the Fifth grader became so upset that her grades dropped and she thought about suicide. Her parents complained repeatedly but nothing changed. The Court found that the school’s failure to act was so serious that it denied the student equal access to education.

### **If you have experienced harassment, you should >**

- Make a report in writing and include all the details of the incident, such as who was involved, what happened, when it happened, where it happened, and if there are any witnesses (get their names and contact information);
- Find out your school's policy on sexual harassment;
- Follow your school's complaint procedure; and
- Keep a copy of anything you file and all responses.

### **If that doesn't remedy the problem, you can file a complaint with >**

ADE Title IX Coordinator/ Human Resources Director  
Arizona Department of Education  
1535 West Jefferson Street, Bin #9  
Phoenix, AZ 85007

Office for Civil Rights, U.S. Department of Education  
Cesar E. Chavez Memorial Building  
1244 Speer Boulevard, Suite 310  
Denver, CO 80204-3582



## IV. School Discipline and Law Enforcement

**US Constitution /Fourth Amendment** > 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.

**US Constitution /Fourteenth Amendment** > “No State shall ... deprive any person of life, liberty, or property, without due process of law.”

**AZ Constitution** > No person shall be disturbed in his private affairs, or his home invaded, without authority of law . . . . No person shall be deprived of life, liberty, or property without due process of law.

The Constitution protects students from unreasonable searches and seizures, and from suspensions or expulsions without adequate procedures. Although you go to school, that doesn't mean you give up your right to privacy or fair treatment, also known as due process.

**Can the school search my locker?** Yes, but only under certain circumstances. School officials can search your locker only if they have “reasonable suspicion” to believe that it contains a prohibited or illegal object. School administration must post a sign or notice informing you that your lockers are subject to search.

**A teacher caught a friend of mine using her cell phone in the hallway at school. She took my friend's cell phone and started reading the text messages. Can the teacher just confiscate her phone like that?**

It depends. If the school has a policy against using cell phones during the school day, then a school official may confiscate the phone because your friend violated school rules. However, in order to look through her text messages, the teacher must have reasonable suspicion that the messages themselves will reveal a rule violation. Even though you are at school, you still have a right to privacy in your belongings.

**What is “reasonable suspicion”?** “Reasonable suspicion” is a suspicion of wrongdoing based on specific facts and not on a mere hunch or rumor. For example, if the principal wants to search you because he or she thinks you “look like a drug dealer,” that isn’t good enough. But if another student tells the principal that he or she actually saw you dealing drugs, that may amount to reasonable suspicion, as can other observations about your behavior.

**Can the school search the entire student body or an entire class just because they suspect one student?** No. There must be “individualized” suspicion that the student or students to be searched are violating school rules or the law.

**Can school officials use metal detectors or drug-sniffing dogs?** Yes. School officials can use a metal detector or dog to conduct a search of your backpack or purse. However, if they began to use the drug-sniffing dogs directly on students themselves rather than on their belongings, it would likely violate the Fourth Amendment absent reasonable suspicion about these students.

**Can the school make me take a urine test for drugs or breathalyzer test for alcohol?** The Supreme Court has ruled that students participating in a sport or other extracurricular activity can be required to submit to random drug tests without violating the US Constitution. Courts have not yet ruled whether random drug testing of students violates the Arizona Constitution.

**Can evidence that school officials find in a search be used against me?** Yes. Evidence seized in a search can be used against you in a school disciplinary proceeding or in a delinquency or criminal court proceeding, regardless of whether the search was conducted by a school official or the police. If the evidence is used in a court proceeding, the judge will have to first decide whether the official or police officer’s search was lawful.

**A teacher was told that I had some medications on me in violation of school rules, so the nurse stripped searched me. Can they do that?**

No. Strip searches are so intrusive that they are almost always unreasonable. Strip searches are only permitted in rare circumstances when the school suspected students of hiding something on their bodies, when there is no less intrusive way to search and when there is no time to wait.

**You've got to fight, for your right!** In 2009, in an ACLU case called *Redding v. Safford Unified School District*, the Supreme Court held that school officials violated the Fourth Amendment rights of 13-year-old Savana Redding when they strip searched her based on a classmate's uncorroborated accusation that she had brought ibuprofen to school. The Court held that "the intrusiveness of the strip search" could not be considered "justifiably related to the circumstances" given that there was no evidence that Savana had drugs hidden on her body.

**Do police have the same right to search students as school officials?**

It depends. If police are called to your school for a particular incident, the limits on their right to search students are the same as those on persons on the street. Police either need a court warrant or, if it is an emergency, they must have "probable cause" that a crime is being committed before the search. If the police officer conducting a search in a school is a "school resource officer" regularly stationed at the school, s/he does not need more justification than any other school official.

**If a school official or a police officer asks me for permission to be searched, can I say no?** Yes. You always have the right to say no to a search, and you should make it clear that you are refusing. If you agree to a search, you may turn an illegal search into a legal, "consensual" search. However, you should not physically try to prevent a search, even if you think it is illegal.


**On television, I always see people talking about “Miranda Rights.” Do students have them?** When police arrest suspected law breakers, they generally must inform them of their right to remain silent, their right to a lawyer, and the fact that what they say can be used against them in court, before they begin to question them. But a school official may question you without reading you your rights. Although the law requires that parents be notified when police arrest a student at school, it does not require that they be notified or permitted to be present if the student is simply questioned.

**Do I have to answer if a school official or police officer asks me about criminal activity?** No. Even at school, you have a constitutional right to remain silent when questioned. As a general rule, it is better not to speak with officials or the police about possible unlawful activity until you have spoken to your parents and a lawyer, and you should make it clear that you do not want to answer any questions until you have done so. You cannot be punished for refusing to answer a question by the police, though it may be grounds for school officials to discipline you.

If you are asked by a police officer for your name, and you refuse to provide it, you may be arrested and face a misdemeanor charge under Arizona law. To comply with the law, you must state your true first and last name.

**What if I am stopped by a police officer away from school?**

Politely ask the officer, “Am I free to leave?” If the officer says yes, then calmly walk away. If the officer says no, then you must remain there. Remember, however, that you can still say no to a search or questioning. Other than providing your name, you do not have to provide any identification unless driving a car. If asked why you are saying no, tell the officer that you would like to speak to an attorney. Do not get into an argument with an officer, touch any officer, or physically interfere with a search or investigation.



**My friend was arrested for marijuana possession, but her parents won't hire a lawyer for her. Does the court have to provide her with an attorney?** Yes. A child is entitled to a lawyer at every step of the delinquency or criminal court proceeding. If s/he can't afford a lawyer, s/he should tell this to the judge and the judge will appoint one for him/her at no cost.

**If I get arrested, will I be tried as a child or as an adult?** If you are arrested for a crime before you turn 18, you will generally be treated as a child and your case will be handled by the juvenile delinquency court. However, for serious crimes, prosecutors and courts are increasingly trying persons younger than 18 as an "adult."

**Can I get arrested just for belonging to a gang?** No. Mere association with others without a criminal purpose is constitutionally protected. However, if you admit to an officer that you are in a gang, your name may be entered into a database for known gang members and it may affect your punishment if you are later convicted of an offense. Membership in a gang may be punished by your school.

**Is it legal for a teacher or school official to hit a student?** Under Arizona law, teachers may use "corporal punishment." However, school officials may not use physical punishment that is excessive or cruel and unusual. Use of force by a teacher may violate your rights and should be reported.

**When can a student be suspended or expelled?** In Arizona, a student may be expelled for continued defiance of authority, continued disruptive behavior, violent behavior that includes use or display of a weapon, bringing a firearm to school or threatening an educational institution, excessive absenteeism, or for defacing school property. School districts may also suspend or expel students for other serious offenses or several violations of school rules. Before you can be suspended for more than ten (10) days or expelled from school, you must be provided with adequate notice and a hearing to determine whether you committed the offense. At the hearing, you may be represented by counsel, present witnesses on your own behalf, and cross examine adverse witnesses.

## V. Sexual Health and Marriage

**I asked my health teacher to explain how to use a condom, but she only responded “don’t have sex before marriage.” Why didn’t she answer the question?** The Arizona Administrative Code states that sex education materials and courses should encourage students to abstain from sexual intercourse until they are adults and “promote the institution of monogamous heterosexual marriage.” As a result, many school districts have policies that prohibit them from providing students with information about safe sex. In practice, Arizona has not adopted an “abstinence only” policy, but school districts still have the discretion to develop their own curricula as they see fit. The ACLU believes that abstinence-only programs do not provide young people with adequate and accurate information.

**My school offers a class on reproductive health, HIV, and AIDS. Do I have to take it?** No. Schools cannot be prohibited from offering sexual education classes taught from a public health point of view. However, under Arizona law, a parent or legal guardian may request that you be exempt from taking such classes for religious reasons.

**I am worried I might have a sexually transmitted disease. Do I have to get a parent or guardian’s consent to get tested?** No. You have the right to get confidential treatment from the school staff without your parent or guardian’s consent.

**Can school officials make me leave school if I become pregnant, or forbid me from participating in certain activities?** No. A school may not discriminate against a student just because she is pregnant, has had a child, has terminated a pregnancy, or is recovering from procedures related to a pregnancy or abortion. Arizona law gives you the right to remain enrolled in regular classes through the “teenage parent program.” However, if you choose, you may require your school to create a special program tailored to your needs.

**Can I get birth control even though I'm only 17?** Yes. Minors have a right to privacy that includes access to birth control; the school does not have to provide this.

**If I become pregnant, may I choose to put my baby up for adoption?**

Yes. Under Arizona law, you may choose to give your child up for adoption. In addition, if you later feel that your decision to put your child up for adoption was coerced, you have the right to take back your permission.

**Do I have a right to receive an abortion?** Yes. In Arizona, you have the right to receive an abortion. If you are under 18, you must have the consent of a parent or guardian, or permission from a judge. Any person seeking an abortion in Arizona must also submit to a "24 hour waiting period;" however, the waiting period requirement is currently the subject of a court challenge.

**What the courts say . . .** In 1992, in a case called *Planned Parenthood v. Casey*, the Supreme Court said that women have a constitutional right to choose to have an abortion. The government may create rules about getting an abortion, but only so long as it doesn't place an "undue burden" on the woman's ability to obtain an abortion.

**Do I have to tell the father if I am pregnant?** No. The decision is completely up to you. The father has no legal say in the decision-making process. If you choose to have an abortion, you do not need the father's consent and he does not have to be notified.

**As the father, what rights do I have to decide what happens to the child?** Regardless of whether you are married to the mother, as a father, you have the right to be part of the child's life if you so choose. To protect your parental interest, you should: establish in a court proceeding that you are the father of the child, voluntarily acknowledge that you are the father with the Department of Health and Rehabilitation Services or in the birth certificate, and provide child support. If you abandon your child, your parental rights may be terminated and you can lose your right to have a say in whether the child will be adopted.

**I am 17 years old. Can I get married?** In Arizona, a person who is under 18 may not get married without a parent or guardian's consent. If you are under 16, you cannot get married without the consent of a parent or guardian and a judge. If you live with both parents, one parent's consent is sufficient. If you live with just one parent, you must get the consent of the parent you live with.

If you have questions regarding sexual or reproductive health, you may contact **Planned Parenthood of Arizona at 1-800-230-PLAN (7526)** or visit <http://www.plannedparenthood.org/ppaz/>.



## VI. Lesbian, Gay, Bisexual and Transgender Students' Rights

**Kids at school call me nasty names and threaten to beat me up because I'm gay. One time, my teacher heard this and did not tell them to stop. Is this harassment allowed?** No. School officials who do nothing to stop harassment by other students or teachers because of sexual orientation or identity violate a student's right to equal protection of the law. As a LGBTQ student, you are protected from harassment and discrimination at school, just as other students are protected from race- or gender-based harassment and discrimination.

**Can I start an LGBT or GSA club at my school?** The federal Equal Access Act says that if a public school permits non-curricular clubs, like chess clubs or community service clubs to meet at school, after or during school hours, then it has to let your club meet too. School officials cannot refuse to let students meet at school simply because they don't agree with the club's mission, theme, or actions.

**I have not told anyone at school that I am gay because I am scared of the reaction of my classmates. If the school finds out, can they "out" me?** No. Your school does not have the right to out you to anyone without your permission. The federal courts have held that threatening to disclose private information, such as sexual orientation, violates a student's constitutional rights.

**Can I bring a same-sex date to the school prom?** One court has ruled that prohibiting a gay student from bringing his date to the prom was a violation of his constitutional right to freedom of association. Arizona courts have not yet ruled on this issue.

**I was expelled from my private school after school administrators found out I was gay. Can they do that?** It depends. Private or religious schools are not bound by the Constitution in the same way as public schools. However, private schools are sometimes bound by local, state or federal civil rights laws that prohibit discrimination on the basis of sexual orientation. Arizona does not have a statewide law on this issue, so you should check to see if your city has a local law.

**I am transgendered. Can I get in trouble at school if I wear clothing of the opposite sex?** If your school has no official dress code, you should be able to wear what you wish to express your gender identify as long as it does not disrupt school activities. If there is a dress code, you may still have an argument that restricting gender expression is discrimination under Title IX.

**You've got to fight, for your right!** In February 2009, a Peoria student contacted the Arizona ACLU after he was told he could no longer wear a wristband with the words "rainbows are gay" to school. After the ACLU sent a letter to the school, the school assured that it would no longer censor the student's right to free expression. The student is now permitted to wear the wristband.

## VII. Students with Disabilities and Students Needing Special Education

**Is my school required to provide special instruction, classes, and services for disabled students?** Yes. Arizona (and federal) law require all school districts to provide special education to children with disabilities. This means that the needs of disabled students must be met just as the needs of non-disabled students are.

**I was an honor student at my old school, but my new school put me in special education classes because I'm in a wheelchair. Do I have to be in a separate class?** No. According to Arizona law, a disabled student may not be segregated from other students if the regular class would provide a suitable learning environment and adequate accommodation can be made to meet the disabled student's needs. Just because a student is in a wheelchair does not mean that s/he has to be in a separate class.

**I am disabled. Can my school refuse to let me play sports or participate in other extracurricular activities?** It depends. Students with disabilities must be given an equal opportunity to be involved in extracurricular activities. That means schools have to make reasonable accommodations for these students. But schools may deny participation to a disabled student if it would create a serious risk of injury, or if they can point to other non-discriminatory reasons for their decision.

**Are there special rules for suspending or expelling disabled students?** The federal Individuals with Disabilities in Education Act (IDEA) protects disabled students from being removed from the classroom if the conduct leading to suspension or expulsion is a manifestation of his/her disability. Unless the charge is for carrying a weapon, seriously hurting another, or drug possession, the school must hold a hearing within 10 days to determine if this is the case. Even if the school ultimately finds that a disabled student may be suspended or expelled, the school district must provide education in an alternative setting.

## VIII. Immigrant Student Rights

**My dad complains that if kids don't speak English, they shouldn't have the right to go to school here. Are non-English speaking kids entitled to an education?** Yes. If a student cannot follow what's going on in class, he or she is effectively being denied equal access to education. Public schools must therefore provide instruction for limited English proficient (LEP) students, and teach them English.

**A friend of mine is really worried because her parents are undocumented immigrants. If the school finds out, can she get kicked out?** No. Everyone living in the U.S. has a right to free and full public education. She should not be discriminated against at school because of her immigration status.

**What the courts say . . .** In a 1982 case called *Plyler v. Doe*, the Supreme Court stated that undocumented children have the same right to a free public education as US citizens and permanent residents.

**Can the school require me to tell them what my immigration status is?** No. While this issue has not yet gone before an Arizona court, in 1978, the State Attorney General wrote a legal opinion prohibiting school officials from asking about a student's immigration status.

**Do I have to answer a police officer's questions about my immigration status?** No. You have the right not to answer any questions, including questions about you or your family's immigration status. It is a good idea to speak with a lawyer before you answer any questions or sign any papers. If you say you are not a U.S. citizen and cannot prove that you are in the country legally, you may be arrested. However, if you do not have a valid immigration document, it is important that you do not show the officer fake documents. Do not lie or say you are a U.S. citizen if you are not. Also, do not carry papers from another country.

**After I graduate from high school, I want to attend college. I have been told that I cannot get financial aid or in-state tuition because of my immigration status. Is that true?** In 1996, Congress passed a federal law prohibiting undocumented students from receiving in-state tuition rates at public institutions of higher education. There is proposed legislation called the "DREAM Act" that would remove this restriction, but it has not yet been voted on. Arizona does not provide any in-state tuition benefits to undocumented students.