

ASK
Sybil Liberty
about



Getting an education isn't just about books and grades – we're also learning how to participate fully in the life of this nation. (Because the future's up to us!)

But in order to really participate, we need to know our rights – otherwise we may lose them. The highest law in our land is the U.S. Constitution, which has some amendments, known as the Bill of Rights. The Bill of Rights guarantees that the government can never deprive people in the U.S. of certain fundamental rights including the right to freedom of religion and to free speech and the due process of law. Many federal and state laws give us additional rights, too.

The Bill of Rights applies to young people as well as adults. And what I'm going to do right here is tell you about

THE RIGHT TO PRIVACY.

your right to

PRIVACY

WHAT IS THE RIGHT TO PRIVACY?

The right to privacy is not mentioned in the Constitution, but the Supreme Court has said that several of the amendments create this right. One of the amendments is the Fourth Amendment, which stops the police and other government agents from searching us or our property without "probable cause" to believe that we have committed a crime. Other amendments protect **our freedom to make certain decisions about our bodies and our private lives without interference from the government - which includes the public schools.**

WHAT ARE MY RIGHTS CONCERNING THE POLICE?

You've all heard cops on TV or in the movies say, "you have the right to remain silent..." Well, that's exactly what you should do if the police ask you questions. Remember **anything you say can be used against you.**

Just give the police your name and address and say you want to speak to your parents and a lawyer. As soon as you do that, the police must stop questioning you.

The police aren't allowed to search you unless they have a warrant signed by a judge or unless they are arresting you. However, if they believe that you have a weapon, they can frisk you, and if they feel a weapon, they can then search you. If the cops ask to search you or your car, **don't resist the search**, but let them know that you don't consent to it.

DO I HAVE A RIGHT TO PRIVACY WHEN I'M AT SCHOOL?

Yes and no. Since public schools are run by the government, they must obey the Constitution. **However, you do have fewer privacy rights in school than outside of school.** Some of the so-called solutions to problems like drugs and violence – such as searching us or planting undercover cops in the hallways to spy on us – can abuse students' rights. It's like, hey guys, this is school, not prison!

WHAT SHOULD I DO IF A TEACHER WANTS TO QUESTION OR SEARCH ME?

You have the right to remain silent if you're questioned by a school official. Usually there is no problem with answering a few questions to clear something up. But if you think that a teacher suspects you of having committed a crime, **don't explain, don't lie and don't confess**, because anything you say could be used against you. Ask to see your parents or a lawyer.



We spend a big part of our life in school, so **let's make a difference.** Join the student government! **Attend school meetings!** Petition your school administration! **Talk about your rights** with your friends! **Get involved!**

"(The right to privacy is a person's) right to be left alone by the government... the right most valued by civilized men."
- Former Supreme Court Justice Louis Brandeis

The Supreme Court ruled in 1985 in *New Jersey v. T.L.O.* that school officials, unlike police, may search students without a warrant when they have "reasonable grounds for suspecting that the search will turn up evidence that the student has violated... either the law or rules of the school." But school officials may not search you unless they have a good reason to believe that **you in particular – not just "someone" – broke a law or a school rule.** So, if a teacher thinks she saw you selling drugs to another student, she can ask you to empty your pockets and can search your backpack. But just because they think *some* students have drugs **doesn't give them the authority to search all students.**

And no matter what, the search **must be conducted in a "reasonable" way,** based on your age and what they're looking for. Strip searching is illegal in many states, and where it is allowed, there has to be a solid reason to suspect a particular student of having committed a *really* serious crime.

In some states, courts have ruled that a student's locker is school property, so the school can search it. But in other states, school officials must have "reasonable suspicion" that you are hiding something illegal before they can **search your locker.** Your local ACLU can fill you in on your state laws. But here's a word to the wise: don't keep anything in your locker that you wouldn't want other people to see.

WHAT'S THE DEAL WITH DRUG TESTS OR ALCOHOL TESTS?

A **drug or alcohol test is a search,** but whether the officials in your school have to have "reasonable suspicion" that you're a user before they can make you take a test depends on what state you live in.

A Supreme Court decision in 1995 in a case called *Vernonia v. Acton* said that student athletes can be tested for drugs because athletic programs are voluntary, and student athletes are role models. **Students all over the country are protesting random testing programs,** where officials test a few individuals or force a whole class to be tested just because they suspect that "someone" is doing drugs. Check with your local ACLU to know what the deal is in your state.

WHAT ABOUT METAL DETECTORS?

They're allowed in many states because the courts have ruled that a metal detector is **less of an invasion of privacy than frisks or other kinds of searches.** Nevertheless, some states have guidelines to protect students' rights. California, for example, allows metal detectors in its schools, but it says they can't be used selectively just on certain students – that's discrimination.

WHAT ABOUT THE PRIVACY OF MY BODY?

What you do or don't do with your body is your personal business. If you need to have a pregnancy test, or if you're pregnant, you should **go to the family planning clinic nearest you.** Your local ACLU can help you find one. Some schools provide birth control supplies; find out if yours does. If you go to the doctor, **find out what the doctor's policy is on telling your parents.**

It's your constitutional right to have an abortion. You don't even have to tell your boyfriend about it if you don't want to. However, some states require women under the age of 18 to get their parents' permission, or at least tell them about the abortion. But **if you can't tell your parents,** you have a right to go to court and ask the judge to drop the parental notification requirement in your particular case.

Reproductive rights is a very serious issue, and groups like the ACLU are **working hard to make sure no woman or girl loses her rights to a safe and legal abortion** if she decides to have one.

WHO HAS TO KNOW IF I HAVE AN HIV TEST?

Some states require your parents be notified before you get tested or get treatment. Ask your local ACLU about the laws in your state concerning HIV testing of minors, and where you can get tested anonymously. One last thing: your school or employer **doesn't have the right to force you to be tested for HIV.** You totally have the right to refuse to take an AIDS test.

your local ACLU is:

Some REALLY private matters - like birth control and abortion rights - vary from state to state. And they're worth fighting for!

Produced by the ACLU Department of Public Education, 125 Broad Street, NY NY 10004. For more copies of this or any other Sybil Liberty paper, or to order the ACLU handbook *The Rights of Students* or other student-related publications, call 800-775-ACLU or visit us on the internet at <http://www.aclu.org>. Illustrations by Gloria Petron.