

The search has to be reasonable for a student's age, gender and nature of the suspected violation. You should never be body searched for suspected stealing from the cafeteria, however, that might be reasonable if you are suspected of carrying a weapon.

School officials do not need a warrant to search you. Locker searches are conducted under the same "reasonable" manner as searching your body. If a school official has a good reason to suspect there is something in your locker that violates school rules, they will be able to search. If school officials seize illegal materials from your locker, they can be used against you in disciplinary proceedings. **Don't put anything in your locker that you don't want the school or the police to find.**

School officials have been allowed to randomly search students in classrooms, justifying it as the only effective way to enforce school policy.

The Supreme Court has found that it is reasonable to require mandatory drug testing to play school sports. However, you cannot be prevented from playing if your coach has a hunch that you used drugs. If the coach claims to have proof, you are entitled to tell your side of the story to the principal or some higher authority.

Your school can probably make you submit to a random Breathalyzer test prior to entering a school function and can make you pass through metal detectors to enter school. They cannot search you based on your personal appearance.

Your liberty and the police

Police are not allowed to search you or your car without a warrant unless they are arresting you, they have probable cause or you give your permission. If they suspect you have a weapon, they are allowed to pat you down.

You should cooperate with the police if they want to search you. Tell them you are not consenting to the search but do not try to stop them.

If you are suspected of a crime and the police question you, give them your name and ask why you are being questioned. If you are a suspect, you have the right to remain silent and that is exactly what you should do until you have a lawyer present. If you are being questioned as a witness, answer the questions and tell the police what you know. If they start asking

questions that make you think you are a suspect, ask to see a lawyer and stop talking.

If the police question you at school, ask to have your parents or guardian present. The court has found that it is a good idea to have parents or a guardian present if the police are questioning you, but you do not have the right to this.

You have the same rights as an adult if you are charged with a crime. You have the right to an attorney, due process (know why you are being held and to tell your side of the story) the right to remain silent and protection against cruel and unusual punishment.



Childrens Advocacy Resource Center

*"Providing legal and support services for
Kansas children."*

*The Children's Advocacy Resource Center
brings together the children's advocacy
projects of Kansas Legal Services.*

Foster Care Questions?

1-877-298-2674

Call the Foster Care Helpline for free

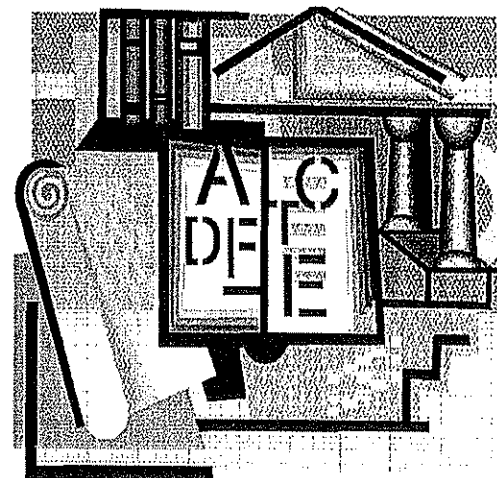
**legal advice, or any
foster care questions
you may have.**

Kansas Legal Services

Marilyn Harp, Executive Director
712 S. Kansas Avenue
Suite 200
Topeka, KS 66603
(785) 233-2068
Fax (785) 354-8311

www.kansaslegalservices.org

STUDENT RIGHTS IN PUBLIC SCHOOL



Prepared by the Children's
Advocacy Resource Center

A student does not lose his or her constitutional rights to Freedom of Expression when they enter school. Teachers and administrators are to respect the right of students to exchange ideas and opinions with other students as well as defend their individual beliefs.

However, the Supreme Court has ruled that student's First Amendment Rights (the Free Speech Clause) are not automatically as protected as rights of adults in other settings. The school can restrict what you say or do when your words or actions disrupt the educational process or the maintenance of discipline and order. You can't say or do anything that interferes with someone else's education or if it is likely that your actions or words will cause a danger to the safety of other people. However, school officials cannot stop your speech or actions just because they don't agree with you or your opinions are controversial.

Further, school officials can limit the time, place and manner of speech outside of school, but not the content. That means school officials can prevent you from holding a rally in front of the school that blocks the entrance as long as the same rule applies for all groups.

Dress Codes

The right to express yourself as long as you don't cause a material or substantial disruption does not keep school officials from restricting the way you dress. Some schools justify dress codes as a method to control discipline and avoid distraction. If there is a gang problem in your school, the school may restrict students from wearing "gang-style" clothing. However, a school that has no history of gang related violence would be violating your freedom of expression.

Most schools have rules that will not allow students to wear T-shirts with obscene language or logos/slogans for alcohol/drugs. Your school cannot stop you from wearing clothing printed with a religious or political message just because they do not agree with it.

School Newspapers, Plays, The Arts

If the school is sponsoring your student newspaper or play, the principal is entitled to edit it to make sure 1) you learn what you are supposed to learn 2) the content is not inappropriate for the maturity level of those who will read or see it and 3) protect the school's reputation. A Kansas law specifically protects the first amendment rights of free speech in student school publications and the material cannot be suppressed just because it speaks about political or controversial subjects.

You will probably be allowed to criticize a teacher, school administrator or your school in a school newspaper. That falls under your right to free speech. However, it may be libel or slander if you say or publish something you know to be untrue and is harmful to another person. Make sure you know your source is trustworthy and only print what you know to be true.

Schools are not allowed to censor only one side of a controversial subject.

One issue gaining attention is the creation and use of Web sites designed outside school that cover events/topics about the school. Schools have tried to suspend or expel students for website content. Several courts have overturned these punishments saying that schools can't censor free speech that takes place outside school, even if the school is the topic.

Your school cannot control the content of material that is published outside of school, but can control when and where you distribute it at school. If the distribution causes a "substantial disruption" or the material contains obscene language, your school can stop you from distributing your own work or from other students reading it.

Banning books

School officials may not remove a book from the library only because they do not like the ideas contained in the book. The Court has allowed books to be removed for "educational suitability", as long as the removal is based on something unacceptable in the book, not the ideas contained in it.

Profanity

The school board makes the decision as to what expressions are inappropriate in school classroom or assembly. The Supreme Court has found that it is not a violation of free speech to allow the school to make these decisions. This was based on a speech in an assembly, which is more protected than everyday speech in the hallways, which would be less protected. However, if there is a valid teaching objective and the material is age appropriate, a teacher may allow the use of language in a classroom that would otherwise not be considered appropriate. For example, language used in a poem or images in a painting that depict the subject matter for an assignment might be allowed, even if your school rules prohibit profanity.

Saying the Pledge of Allegiance

The government cannot make you say what you do not believe. If you do not agree with the words or ideas expressed in the pledge of allegiance, you can sit down, remain silent or even leave the room.

Prayer in School

The Supreme Court has ruled that group prayer initiated or sponsored by the school or school participation in a prayer are prohibited – in the school and at graduation ceremonies. A student led prayer at graduation may be allowed, although the Court has not yet ruled on this matter. A teacher can allow a moment of silence in class, as long as the students are allowed to use the moment in any manner they please. A moment of silence for meditation and voluntary prayer is prohibited. You are allowed to pray on your own in public schools.

Searches, Drug Testing and School Security

Your protection from unreasonable searches and seizure comes from the Fourth and Fourteenth Amendments. The Fourteenth Amendment says in part:

"The right of the people to be secure in their persons . . . against unreasonable searches and seizures shall not be violated, and no warrants shall issue, but upon probable cause, . . . and particularly describing the place to be searched, and the persons or things to be seized."

The Supreme Court has ruled in cases and formed what basically amounts to a 'junior version' of the search and seizure protections for students in public schools. Instead of probable cause and a warrant which are typically required for a search a school only needs **reasonable suspicion**, a much weaker standard, to search a student. The Court explained that it was trying to balance the constitutional rights of students against the school's right to enforce discipline and promote order.

In order to be searched for drugs or a weapon at school, the teacher or school administrator must "reasonably believe" that you are carrying drugs or a weapon. This must be more than a hunch. A reasonable belief would be if a teacher overheard students talking about a gun or drugs they saw with you.

The teacher can only search you if it is necessary to maintain discipline or maintain school rules. You cannot be searched for cigarettes even if it is against school rules to smoke on school property. If a teacher has seen you smoking on school property, then they have the right to search you.