



FREEDOM OF BELIEF, EXPRESSION, AND ASSOCIATION

Academic Freedom

Policy #77

Elementary School Students' Civil Liberties

(a) Right to Free Education

Every child in this society has the right to a free public education. This right is inextricably linked to the right to participate in the electoral process and to the rights of free speech and free association guaranteed by the First Amendment. Therefore, no child should be denied access to education for any reason such as physical handicap, learning disability, pregnancy, language barrier, behavioral problems, or financial difficulties. Although extraordinary circumstances may make it impossible to provide for the educational needs of a child within the ordinary school setting, the state retains the obligation to provide for those needs through an appropriate program of instruction; but it is the duty of the state to provide education whenever possible in the regular school setting in order to avoid exclusion or isolation of children.

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(b) Equality of Educational Opportunity

1) Freedom from Discrimination. Education must be made available to all children on equal terms. Educational opportunity should not be denied or restricted for any reason including a child's race, religion, sex, national origin, language, or family circumstances. Discrimination must be excluded from all areas of school life, including assignment of pupils to classes, classroom programs, educational and vocational guidance, school discipline, and extracurricular activities. Teachers shall guard against such forms of discrimination as the passive acceptance of stereotypes that may be encountered in school texts or the development of negative expectations for groups of pupils. Tracking by sex in sports education should be abolished. Moreover, educators have a positive obligation to encourage equality in their development of curriculum selection of materials of instruction, organization of classroom activities, and practices in testing and evaluation. [Board Minutes, June 21-22, 1980.]

2) Language and Educational Opportunity. A student who does not understand the language of instruction is effectively denied educational opportunity. Schools have the obligation to teach English to those whose functional language is not English and to teach children in a language they understand. (see Policy on English-Only Movement)

3) Physical Disabilities. Schools have a duty to provide equal educational opportunity to every person regardless of physical disability. To the fullest extent possible, all students should share the same educational facilities and programs. In some limited circumstances, however, it may be more appropriate to provide special facilities or programs for particular students, which may require additional funding and specialized instruction. Such facilities or programs should not promote the segregation of the physically disabled from other students. Disabled students should spend maximum time with other students so as to minimize isolation and segregation from their peers. [Board Minutes, October 4-5, 1980.]

4) Equality of Financial Support. Equality of educational opportunity is undermined if a child's education is limited by an unfair distribution of financial support. Systems

under which each locality's school funds are in large part determined by the taxable resources of that locality are inherently unfair, since the resulting differences in funding do not reflect educational needs. States have the responsibility to ensure equal educational opportunity for all the children in the state by adopting financing procedures that place the resources of the state equitably behind the education of each child. It is not necessary that states establish school finance systems that provide equal dollars per child; rather, those schools or districts with greater educational needs will generally require and be entitled to extra funds. The nation as a whole, moreover, has a responsibility to reduce the disparity of resources for education among the several states. [Board Minutes, January 17-18, 1981.]

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(c) Democratic Participation in School Life

One of the school's major aims is to help children move from dependency on adults to becoming independent beings in their own right, capable of making the judgments and decisions required of citizens in a free society. Because the school serves this role, it should make every attempt to increase the involvement of each student in the decisions affecting his or her school life.

From the earliest grades, students should have experience with voting on issues and electing representatives of their own choosing. The secret ballot should be used in appropriate situations. Since participation in elections is both a means of sharing in school government and a form of preparation for future citizenship, the right to vote or to run for office should not be withdrawn as a disciplinary measure. [Board Minutes, April 11-12, 1981.]

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(d) Rights of Parents and Guardians

Unlike students in high schools or colleges, students in elementary schools cannot always be expected to press vigorously for their own rights. Often it is necessary for parents to act on behalf of young children when they believe that rights are being violated. Parents are entitled to an opportunity for full and effective scrutiny of the character and quality of the education their children are receiving. They should have as full access to the school as is possible without substantial disruption of the school's work.

Parents and guardians have the right to be informed of all regulations pertaining to the operation of the school and to the dispensing of privileges and sanctions. The right of formal appeal to an impartial authority should be provided to parents or guardians who feel that their children's rights have been violated by a teacher, principal, or other school personnel.

Parents should be able to participate, also, in the larger processes of educational decision-making. Through participation in school board elections, public hearings, parent councils, and other forms of school government, parents should be able to contribute to the determination of overall school policies. [Board Minutes, April 11-12, 1981.]

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(e) Access to School Records by Parents and Students

1) We recognize that school officials maintain records on students involving educational, medical and psychological information. However, teachers and counselors should not keep records that they would be unwilling to share with students and their parents.

2) Temporary private notes of teachers maintained solely for their use and not shared with other person in or outside the school are exempt from any right of access.

3) The parents of elementary school students should have the right to examine and copy all official school records, files, and data that pertain to them or to their children, including but not limited to all material that is incorporated into each student's cumulative record folder and guidance folder. An exception should be made, however, for information supplied by the child, the disclosure of which would produce a clear and immediate danger to the health and safety of the child, such as the danger of retaliation by the parent.

4) If the parent gives consent to his/her child examining the school record must comply with this parental decision.

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(f) Use of Behavioral-Modifying Drugs in School

The use of drugs by schools infringes upon childrens' rights of privacy and also undermines their personal and parents' autonomy and freedom. The potential for misuse that inheres in drugs precludes their use by school officials.

However, this does not prevent school officials, at the request of the parent that is concerned, from administering medically prescribed drugs necessary for the health or well being of a particular child.

This also does not prevent school officials from defining certain behaviors as incompatible with the educational process (as distinct from children who are merely difficult to teach). While school officials may require that the incompatible behavior be ameliorated, they may not specify the method(s) by which the behavior is modified. Thus, the right to an education appropriate for a particular child cannot be made contingent upon his/her parent's consent to the administration of drugs. Further, a child may not be suspended, expelled, or deprived of educational opportunity solely because of refusal by the child's parents or guardians to authorize treatment with drugs.

This policy recognizes that especially in the case of handicapped children in special schools or classes, at the request of the parent that is concerned drugs may be prescribed for medical/psychiatric conditions which have only an indirect bearing on the child's education.

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(g) Searches Within Schools by Police and School Authorities
Privacy and Searches

1) Children are entitled to respect for the privacy of their persons and property in school.

2) The school should designate a place for each child where the child can have a reasonable expectation of privacy of his or her property. In this place, the child's property should be secure from all searches except those meeting the procedural requirements described below. Schools should designate in written promulgated rules the areas which have an expectation of privacy attached to them and those which do not.

3) If a search is desired by school authorities or police because they suspect it will produce evidence related to criminal activity, such search should be conducted only under either of the following conditions:

- a) a search warrant has been obtained, setting forth the grounds for the search and the things to be seized;
- b) the informed consent of the student and his or her parents has been obtained; or
- c) there are exigent or emergency circumstances and there is probable cause.

4) In all other circumstances, the student's locker or place where the student has been given reasonable expectation of privacy should not be searched by school personnel, or anyone else, without a stated reason and the child's or the parent's informed consent for the specific search. Since very young children are often easily intimidated or manipulated to give consent, this principle requires a practice of self-restraint on the part of the teachers, school administrators and other adults. In circumstances where the search carries with it the possibility of serious sanctions, the parent's consent should be required, regardless of whether or not the child consents.

5) School officials should never conduct personal or body searches of a student except in emergencies involving imminent danger to health and safety. Such searches by policy should be subject to the same standards inside school as are required of the policy outside school. [Board Minutes, April 10-11, 1987.]