



## INFORMATION FOR CLIENTS OF TEXAS ATTORNEYS

*The information included on this page is for educational and informational purposes only. Please consult an attorney regarding specific legal questions.*

# Your Rights On Campus: A Guide for Public High School Students on Their Constitutional Rights at School

This article summarizes the law governing the constitutional rights of American public high school students on campus. While schools may place reasonable limitations on students' exercise of their rights, the U.S. Supreme Court has made clear that high school students do not shed their constitutional liberties at the high school's front door.

### Religious Liberty Issues *Free Exercise of Religion*

Students are free to pray at school, subject to reasonable time, place, and manner restrictions to prevent foreseeable material and substantial disruptions (a student may not, for example, pray out loud while the biology teacher is presenting the day's lesson). Students may not be required to pledge allegiance to any government or symbol if doing so conflicts with a sincerely held religious belief. Students may not be required to remove religious symbols or clothing if wearing the symbol or clothing is dictated by the student's sincerely held religious belief.

Finally, students may not be penalized for referring to religious beliefs in schoolwork. Of course, if the work lacks academic merit, the fact that it includes religious references is immaterial.

### *Religious Speech*

Public schools may not punish students for expressing their personal views on school premises unless school authorities have reason to believe that such expression will substantially interfere with the work of the school or impinge



upon the rights of other students. This means that students have a right to distribute religious tracts on campus, subject to reasonable time, place, and manner restrictions to prevent foreseeable material and substantial disruptions.

### The Rights of Students to Freedom of Expression *Clothing and Dress Codes*

Clothing and dress codes are among the most contentious areas of student expression. Courts consistently recognize

that student dress can be a means of expression implicating the First Amendment. As more schools turn to mandatory uniforms, the rules governing student dress under the First Amendment grow more confusing. The Supreme Court has never decided a dress code case. Several federal courts, however, have upheld student dress codes as constitutional. But some of these same courts also have recognized the right of students to protest school policies so long as they are not disruptive in doing so.



School limits on clothing usually are evaluated under the *Tinker* standard (*Tinker v. Des Moines Independent Community School District*, a 1969 U.S. Supreme Court case that affirmed U.S. students' constitutional rights in public schools), meaning schools can enforce rules concerning clothing to avoid material and substantial disruption. But some federal courts permit schools to ban all T-shirts. This area of the law is unsettled.

### Library Censorship

The Supreme Court has held that the First Amendment rights of students may be directly and sharply implicated by the removal of books from the shelves of a school library. The Constitution protects the right to receive information and ideas. School officials may not remove books from school library shelves simply because they dislike the ideas contained in those books and seek by their removal to "prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion." But the decision is limited to the removal of books, not to their acquisition. And schools may remove educationally unsuitable books from their libraries.

### Off-Campus Speech

Courts disagree over how much authority school officials have over off-

campus speech. Some courts continue to distinguish clearly between on-campus and off-campus speech, while other courts allow school officials to penalize off-campus student speech, including blogs and websites. Most of these courts hold that off-campus speech may be penalized under the *Tinker* standard where it is reasonably likely to materially and substantially disrupt the educational process.

### Student Privacy Rights

#### Drug Testing

In 2002, the Supreme Court broadened the authority of public schools to test students for illegal drugs. The Court held in *Board of Education of Pot-*

*tawatomie County v. Earls* that testing students who participate in extracurricular activities is a reasonably effective means of addressing a school district's legitimate concerns in preventing, deterring, and detecting drug use.

### Release of Information to the Armed Forces

The No Child Left Behind Act requires public high schools to provide student contact information to military recruiters. But students and their parents have the right to request that the student's name, address, and telephone listing not be released without prior parental approval. Once the request is made, the school must comply with it. \*

This article is excerpted from *Your Rights On Campus: A Guide for Public High School Students on Their Constitutional Rights at School*, published as a public service by the Texas Young Lawyers Association and the State Bar Individual Rights & Responsibilities Section. For a complete copy of the guide — or its companion, *The Constitution at School: A Guide for Public High School Principals on the Constitutional Rights of Students on Campus* — write to Public Information Department, State Bar of Texas, P.O. Box 12487, Austin 78711-2487; call (800)204-2222, ext. 1800; or visit [www.texasbar.com](http://www.texasbar.com).

## LAW FIRM MERCHANT ACCOUNT™

### CREDIT CARD PROCESSING FOR ATTORNEYS

**NEW!**



Coming  
Fall 2009



State Bar members save up to 25% off standard bank fees by using a Law Firm Merchant Account.



**Call 866.376.0950 or visit [www.affiniscap.com/TexasBar](http://www.affiniscap.com/TexasBar)**  
Affiniscap Merchant Solutions is a registered ISO/MSP of Harris, N.A., Chicago, IL.