

All information on these pages was taken from the American Civil Liberties Union (ACLU) web site at <https://www.aclu.org/issues/free-speech/student-speech-and-privacy/students-rights-speech-walkouts-and-other-protests?redirect=studentprotestrights>

STUDENTS' RIGHTS: SPEECH, WALKOUTS, AND OTHER PROTESTS

Students around the country are turning the heartbreaking school shooting in Parkland, Florida, into an inspiring push for change. Plans for coordinated student walkouts have been making national news and have already spurred disciplinary threats from some school administrators. That's why it's so important that everyone — especially students and allies — learns about students' rights.

Do I have First Amendment rights in school?

Yes. You do not lose your right to free speech just by walking into school. You have the right to speak out, hand out flyers and petitions, and wear expressive clothing in school — as long as you don't disrupt the functioning of the school or violate the school's content-neutral policies.

What counts as "disruptive" will vary by context, but a school disagreeing with your position or thinking your speech is controversial or in "bad taste" is not enough to qualify. Courts have upheld students' rights to wear things like an anti-war armband, an armband opposing the right to get an abortion, and a shirt supporting the LGBT community. And "content-neutral policies" means rules that have nothing to do with the message you're expressing, like dress codes. So, for example, a school can prohibit you from wearing hats — because that rule is not based on what the hats say — but it can't prohibit you from wearing only pink pussycat hats or pro-NRA hats.

Can my school discipline me for participating in a walkout?

Yes. Because the law in most places requires students to go to school, schools can discipline you for missing class. But what they can't do is discipline you more harshly because of the political nature of or the message behind your action.

The exact punishment you could face will vary by your state, school district, and school. Find out more by reading the policies of your school and school district. If you're planning to miss a class or two, look at the policy for unexcused absences. If you're considering missing several days, read about truancy. And either way, take a look at the policy for suspensions. In some states and districts, suspension is not an available punishment for unexcused absences. And nationwide, if you are facing a suspension of 10 days or more, you have a right to a formal process and can be represented by a lawyer. Some states and school districts require a formal process for fewer days, too. Also, you should be given the same right to make up work just as any other student who missed classes. Find out the rules so you can tell if they are being applied differently when it comes to your walkout.

What about for protesting away from school?

Outside of school, you enjoy essentially the same rights to protest and speak out as anyone else. This means you're likely to be most protected if you organize, protest, and advocate for your views off campus and outside of school hours.

What are my rights on social media?

You have the right to speak your mind on social media. Your school cannot punish you for content you post off campus and outside of school hours that does not relate to school. Some schools have attempted to [extend their power](#) to punish students even for off-campus, online posts. While courts have differed on the constitutionality of those punishments, the [ACLU has challenged](#) such overreach.

Can Schools Discipline Students for Protesting?



By [Vera Eidelman](#), William J. Brennan Fellow, ACLU Speech, Privacy, and Technology Project

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Students around the country are turning last week's heartbreaking school shooting in Parkland, Florida, into an inspiring and exemplary push for legislative change. In the last few days, many people have asked whether schools can discipline students for speaking out. The short answer? It depends on when, where, and how the students decide to express themselves.

Plans for coordinated student walkouts have been [making national news](#) and have already engendered [disciplinary threats](#) from some school administrators. Since the law in virtually all jurisdictions requires students to go to school, schools can typically discipline students for missing class, even if they're doing so to participate in a protest or otherwise express themselves. But what the school can't do is discipline students more harshly because they are walking out to express a political view or because school administrators don't support the views behind the protest. In other words, any disciplinary action for walking out cannot be a response to the content of the protest.

Before deciding whether to join a political walkout, students might want to find out what policies govern discipline for absences in their state, school district, and their particular school so that they're aware of the potential consequences. They should also know that in addition to walkouts, there are actions they can take for which schools *cannot* legally impose punishment.

We hope schools recognize that even when they are within their right to discipline students for protests, that doesn't always mean they should.

For example, during school hours, students [cannot be punished](#) for speaking out unless their speech disrupts the functioning of the school. This is because — as the Supreme Court recognized in a [1969 decision](#) upholding the right of [Mary Beth Tinker](#) to wear an armband to school in protest of the Vietnam War — students do not lose their constitutional rights “at the schoolhouse gate.” This makes sense given the educational purpose of our school system. As the court [held](#) in an earlier decision finding that students cannot be obligated to salute the flag, students' speech rights must be “scrupulously” protected if we are to have any hope of “educating the young for citizenship” and teaching students not to “discount important principles of our government as mere platitudes.”

While what qualifies as “disruptive” will vary by context, courts have typically held that students have the right to wear expressive clothing that doesn't target fellow students or disrupt class. In addition to *Tinker*, the ACLU has successfully represented students asserting their rights to wear clothing expressing [anti-abortion views](#), support for the [LGBT community](#), and even [opposition to the ACLU](#) itself.

Outside of school, students enjoy essentially the same rights to protest and speak out as anyone else. This means that students are likely to be most protected if they organize, protest, and advocate off campus and outside of school hours. Some schools have attempted to [extend their power](#) to punish students even for off-campus, online expression. While courts have differed on the constitutionality of such punishments, the [ACLU has challenged](#) such overreach.

We clearly have a [lot to learn](#) from the students from Marjory Stoneman Douglas High School and their peers nationwide. Their activism inspires confidence in the future of our democracy, and their schools should be proud of them. We hope those schools recognize that even when they are within their right to discipline students for protests, that doesn't always mean they should.