

# ***KNOW YOUR RIGHTS***

## **FREE SPEECH IN K-12 EDUCATION**

Public school students do not lose their First Amendment rights at the schoolhouse gate. The First Amendment protects the right to express opinions, wear expressive clothing, and participate in peaceful protest or assembly, even on controversial topics. The Nevada Constitution mirrors these protections and also protects race, color, creed, sex, sexual orientation, gender identity or expression, age, disability, ancestry, and national origin. However, schools may place reasonable restrictions on speech to maintain order, protect the rights of others, and ensure that education is not disrupted.

**This information is not legal advice, but intended to be a resource for students to understand and assert their rights.**

### **Are Students' Free Speech Rights Protected in Nevada Public Schools?**

Yes. Students retain their right to freedom of speech in Nevada public schools. Schools cannot stop students from peacefully expressing themselves.

Protected forms of expression include spoken words, actions, and clothing choices which convey a message.

Schools cannot prohibit students from expressing their views, participating in protests, opting out of ceremonies, or distributing political or religious materials.

However, schools can also impose reasonable, content neutral time place and manner restrictions on speech which limit when, where, and how students can express themselves (for example, limiting flyer distribution during class time, or setting rules about where protests can occur).

### **Can Nevada Schools Limit Student Speech?**

Sometimes. Schools may restrict speech if it is likely to cause a "substantial disruption" to the educational environment. This means the school must have a reasonable belief that the speech would interfere with school activities or operations. The school does not have to wait for an actual disruption to occur; a credible risk is sufficient.

However, simple discussion among students about what someone said or did is not considered a substantial disruption.

Speech that is violent, threatening, or requires staff to divert from their duties to address harm may be restricted.

Students have the right to express their opinions, even on controversial topics, as long as their speech does not "materially and substantially disrupt" school operations or interfere with the rights of others. *Tinker v. Des Moines Independent Community School District* (393 U.S. 503, 1969).



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This means that schools may discipline students for speech that is likely to cause a substantial disruption or interfere with the rights of others but cannot discipline or prohibit speech simply because the school disagrees with a viewpoint.

Schools may also discipline students for lewd, vulgar, or indecent speech as well as speech that advocates illegal drug use.

## **What About Dress Codes and General Rules?**

Schools can impose rules that limit student speech, such as dress codes, as long as these rules apply equally to everyone. For example, dress codes must not target only one gender or restrict specific messages while allowing others. Rules must be content-neutral and fairly enforced.

## **Do Schools Have More Control Over School-Sponsored Speech and Activities?**

Schools have broader authority over “school-sponsored” speech—expression that could be perceived as endorsed by the school, such as student newspapers produced under staff supervision, concerts, plays, art shows, or class assignments. In these cases, schools can censor student speech if they have a valid educational reason.

However, rules must apply equally to all students and viewpoints. Schools cannot discipline or censor students who express their opinions simply because their viewpoint is unpopular or because the teacher disagrees with it.

Assignments are also generally school-sponsored speech. Teachers can set topics and limits for assignments as long as they have a valid educational reason.

However, students cannot be censored or disciplined just because their viewpoint is unpopular or disagrees with the teacher. In open-ended classroom discussions, speech can only be censored if it could cause a substantial disruption.

## **Can Schools Censor Books or Curriculum Materials?**

Schools may not remove or censor books or curriculum materials simply because they discuss the experiences of historically marginalized groups or address issues of discrimination.

If a school removes materials under the pretense of inappropriateness but the real reason is disagreement with the content or the identity of the author, this could violate civil rights laws.

Schools are responsible for ensuring inclusive environments and cannot ban materials that accurately address topics related to race, gender, or sexual orientation due to external pressure.

Schools have discretion over which books are included in the library, but once a book is selected, it cannot be removed solely due to disagreement with its content or the author’s identity.

Books may be removed from a school library for valid educational reasons, such as factual inaccuracies or being outdated.

Even if a book is banned or removed from a school library a student can still read and discuss the book as reading or discussing a banned book outside of school-sponsored activities is protected speech, unless it causes or is likely to cause a substantial disruption.

A school’s decision to remove a book from the library does not affect your right to read or discuss it privately.



## **Out of School Speech**

Students in Nevada retain robust First Amendment rights when they are off campus and outside of school activities. Generally, speech that occurs outside of school grounds and school hours—such as on social media, at home, or in public spaces—is highly protected. Schools cannot punish students for off-campus speech unless it causes a substantial disruption at school.

## **School Walkouts**

Schools cannot use special punishments for students in Nevada who participate in a walkout, but students may still be subject to the regular school attendance policies. Therefore, if a school normally allows a student to excuse an absence with parent permission, the school must allow the absence due to a walkout to be excused with parent permission as well. Schools cannot physically deter a walkout or threaten students with additional punishments to deter walkouts.

**You can find more Know Your Rights guides, request a training, and more at [aclunv.org/KYR](https://aclunv.org/KYR).**

