

ACLU

Idaho

STUDENT RIGHTS

RACISM, DISCIPLINE, & POLICING



This document is meant to educate parents, students, and educators on students' civil rights. The focus is K-12 students, although some of the rights discussed here may also apply to college students. Throughout, you may also find examples of possible civil rights violations. These can be very fact-dependent and so we also provide additional resources to seek legal help towards the end.

If you would like to report a civil rights violation in your school in Idaho, you may submit a complaint here:

intake.acluidaho.org

WHAT CAN I DO IF I FACE RACISM, DISCIPLINE, OR POLICING IN SCHOOL?



1 Know your rights

2 Document everything

3 Get help

YOUR RIGHTS AND VOICE MATTER!

1

KNOW YOUR RIGHTS

Racism, discrimination, and civil rights violations can take on many forms in schools. For example, a school or school staff could be violating your civil rights if:

- The school has an **explicit policy to exclude** only Tribal students from participating in field trips.
- A school officer has a **practice** of targeting Latinx students for skipping class, but not white students with the **same behavior and disciplinary history, resulting in more suspensions** of Latinx students.
- A school is aware that a group of students is **severely bullying** a Black student by calling them racial slurs, but the **school does nothing** about the situation.



RACISM

No person in the United States shall, on the ground of **race, color, or national origin**, be excluded from participation in, be denied the **benefits of**, or be subjected to **discrimination** under any program or activity receiving Federal financial assistance.

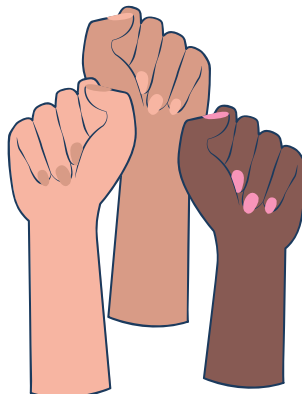
Title VI of the Civil Rights Act of 1964.



- Public schools receive federal funds, so they have to follow Title VI.
- Title VI protects all students, **regardless of immigration or citizenship status.**
- Title VI and the and the Equal Educational Opportunities Act of 1974 (EEOA) also protect **English Learner (EL) students.** EL students must have the opportunity to participate meaningfully in school. This means schools must:
 - Identify and assess EL students
 - Make sure EL students have equal opportunities to participate in all curriculum and extracurricular activities
 - Avoid unnecessary segregation of EL students
 - Ensure that EL students with disabilities are also evaluated for disability services
 - Ensure meaningful participation with parents with limited English proficiency

DISCIPLINE

Students also have rights when it comes to **what** they can be disciplined for and the **way** they are disciplined.



DRESS CODE

- Under Title VI, schools cannot discriminate based on how a person looks, dresses, or speaks, if it is linked to their ethnicity or ancestry.
- A school may be discriminating against students if it unevenly enforces a dress code against only particular groups of students.



1st Amendment!

Your school must treat all views expressed in clothing equally, so long as the messages are not obscene or disruptive. So, if a school allows t-shirts with slogans, buttons, or wristbands, it must permit them no matter what message they express.

Schools must provide students with due process before excluding them from school by:

- Communicating rules to parents and students in advance so that you understand what conduct is not allowed
- Having fair and reasonable procedures **BEFORE** imposing disciplinary actions:
 1. Notice of what the student is accused of and the basis of the accusation
 1. Fair opportunity to respond
 2. Decision based on the available evidence

4th & 5th Amendments!

SUSPENSION

- Before the suspension, ask for an informal meeting to discuss the reason, what rules were broken, and prepare to advocate for your child.
- The maximum time a school can suspend a student is 20 days!
 - 5 days: by Superintendent or principal
 - +10 days: by Superintendent
 - +5 days: by Board of trustees if there is a safety concern

EXPULSION

- The board of trustees may suspend or deny enrollment for habitual truancy, incorrigible conduct, or continuously disruptive behavior.
- But before this, students have a right to a hearing where they may:
 - be represented by an attorney
 - produce witnesses and evidence
 - cross-examine adult witnesses appearing against the student



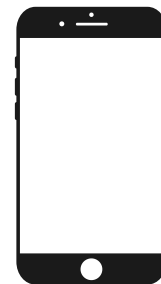
Students with Disabilities:

- Under the Individuals with Disabilities Education Act (**IDEA**) and Section 504 of the Rehabilitation Act (**Section 504**) students with disabilities have **MORE** rights when disciplined.
- If a student with a disability is suspended for more than 10 cumulative days, they must receive **education services on the 11th day**.
- A student with a disability may be expelled in the same way as a student without a disability as long as the misbehavior was **not a manifestation of their disability**.
- Protections may apply to students who have not been officially identified as having a disability and/or the school is in the process of evaluating the student.

POLICING IN SCHOOL

DISCIPLINE

- SROs should **not** be involved in school disciplinary incidents that teachers, school administrators, or school staff would normally handle.
- If it would not require a school to call 911, it is outside of an SRO's duties.



If your school allows cellphone use, you may take photos of law enforcement in public zones as long as you are not interfering with that they are doing.



I do not consent to this search.

SEARCHES

- Before searching a student, even if there is no consent, a school must:
 - Have "reasonable suspicion" that the search will turn up evidence that the student violated a school rule/law. There must be more than a rumor, hunch, or curiosity.
 - Conduct the search in a reasonable manner based on what they area searching and the student's age.



"Reasonable Suspicion" Exceptions:

- consent: clearly state you **do not consent** to avoid this.
- exigent circumstances like a reliable report of a gun.
- no expectation of privacy.

NOTE → Expectation of privacy?

YES

LIKELY NO

NOTE
Schools can conduct random searches as long as these are to ensure school safety, are truly random, and do not target any individual student.



- | | |
|--|--|
| <ul style="list-style-type: none"> • backpacks, bags • vehicles • smartphones • student's body • student's clothing | <p>Property your school has communicated is school property:</p> <ul style="list-style-type: none"> • desks • cubbies • lockers |
|--|--|

INTERROGATION

- If police stops and interrogates you, calmy ask if you are free to go.
- If you are not free to go, you may say **you want to remain silent** and ask for your parent or an attorney to be present.
- Document everything that hapenned, including the names of anyone present.

ARRESTS

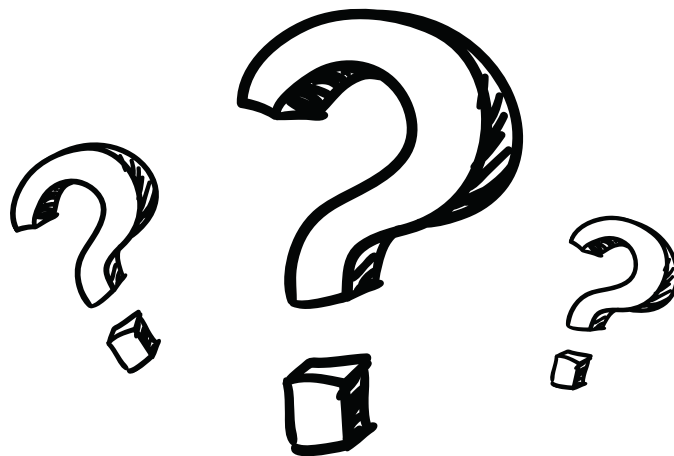
- SROs should not be detaining, arresting, or using force against students unless it is the **last resort** to ensure the safety of everyone at school.
- Require probable cause, a higher standard, than reasonable suspicion.
- Do not resist an arrest—immediately **ask for an attorney**.

I want to remain silent. I want to have my parent & an attorney present.



DOCUMENT EVERYTHING

For every action against you, as a student, or your child, write down everything that happened and save this information. Think of the following questions and gather as much information available to you.

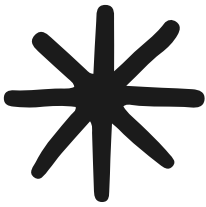


WHAT

What happened?
How were you harmed?
What did you do next?

WHO

Who caused the harm?
Who else was involved or saw what happened?
What are their names, positions, and contact information?



WHERE

·Where did it happen?
Was this at school or off campus?
Where you doing school-sponsored activities at the time?

WHEN

When did it happen?
Is this the first time or has this happened before?
*Dates are very important.

HOW

Is your school aware of the situation?
How did they respond?
Did your school treat you differently after you approached them?
Who else knows about this?



Anything you are told verbally, document in writing. Print emails!



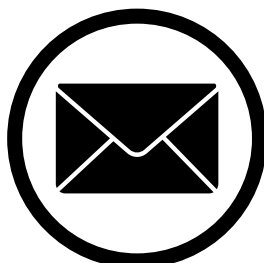
GET HELP

If your school does not help you address an instance of discrimination or retaliates against you for making a complaint, here are other ways to voice your issues and get help:

CONTACT ACLU

We want to hear about your experiences. The issues you are facing are important to us. Although we are not currently providing direct legal representation for education issues, we are working to expand our racial justice and education advocacy and legal work.

**Submit a civil rights violation: intake.acluidaho.org
Email: erodarte@acluidaho.org**



CONTACT AN ATTORNEY

Contact an attorney to talk through legal options for your situation. Below is a list of organizations that may be able to assist you. These may have application processes to determine whether they can provide legal or other services.



Disability Rights of Idaho

Advocacy and legal services for individuals facing an issue related to their disability.

Information:

disabilityrightsidaho.org/wp-content/uploads/2023/01/DRI-General-Brochure.pdf

Application: disabilityrightsidaho.org

Idaho Legal Aid

Legal assistance for low-income farmworker families with civil legal issues, like education-related issues.

Intake: Call 208-746-7541

Idaho Volunteer Lawyers Program

Civil legal services for low-income families.

Legal clinic calendar:

isb.idaho.gov/ilf/ivlp/ivlp-clinics/

Application:

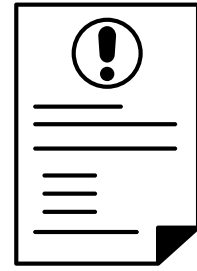
laserfiche.isb.idaho.gov/Forms/IVLP-Application

Idaho Parents Unlimited

Non-legal training and information for individuals with a disability.

Contact: ipulidaho.org/connect-with-us#contact-us-here

FILE A COMPLAINT



OCR

EOS

File a federal agency complaint.
Two agencies enforce Title VI and Section 504:

- U.S. Department of Education, Office of Civil Rights (**OCR**)
- U.S. Department of Justice, Civil Rights Division, Educational Opportunities Section (**EOS**)

If your child has a disability-related issue with an IEP Plan, you may be redirected to work with the **Idaho State Department of Education** (sde.idaho.gov/).

Agency role

Enforce Title VI and Section 504 protections.

Who can file

Anyone who believes there has been an act of discrimination may file a complaint, including someone filing on behalf of the victim(s).

Where to file

EOS: civilrights.justice.gov ; (202) 514-3847
OCR: ocrcas.ed.gov ; 800-421-3481

When to file

Generally, within 180 days of the date of the alleged discrimination. For OCR, within 60 days of the last act in your school's grievance process (if applicable).

What to include

As much information about what happened (think back to your Step 2. documentation questions.)



This is a general timeline. Complaint review can take months, and the agencies may take years to reach a resolution directly with a school. The timeline may also include options for mediation or other types of resolution.
Unlike EOS, OCR must review all complaints.