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education, and through this educational process, students have rights in many areas, including expression, discipline, safety, privacy, treatment, and accommodations. Therefore, students' rights are an important topic in any discipline that deals with education.

The focal point of all educational activity is the students. Teachers, principals, school social workers, school psychologists, and other staff are all put in place to influence the process by which students receive their education. Regardless of age, disability, race, sexual orientation, and so on, every student has the right to be treated and encouraged with the idea that he or she has value and worth, and the education should be provided as a component of anticipated success for the student.

Many professionals feel that students have too many rights and that those rights hinder the educational process. Some teachers and schools fear lawsuits and other legal trouble. Schools can be sued over questionable discipline practices. This may result in limiting disciplinary procedures and giving a small number of disruptive students the potential to control the classroom environment. In some cases, students have been known to report teachers by making false accusations. Any accusations made, true or fabricated, have the possibility of ending up in a lengthy and expensive court process. On a positive note, these restrictions help protect students and also welcome more creative positive reinforcement techniques.

Along with the diversity of the student bodies across the country comes a broad spectrum of circumstances that put stipulations on how the basic right of a free and appropriate education is materialized. Certain factors such as a student's neighborhood, race or ethnicity, socioeconomic status, level of disability, and safety put limitations and restrictions on the way that students' education is provided and their rights ensured. Local funding causes the quality of education to vary according to the district in which the student lives. A student's educational experience in a wealthy suburb may look very different from a student's experience in a poor urban district. In addition, a student's race, ethnicity, or socioeconomic status may lower the expectations a teacher of another background places on that child. Again, this jeopardizes a student's access to fair educational practices.

There are various areas of student rights, and they receive attention to different degrees. There is a common theme of balancing rights on one side with different rights on another side. If a student's individual

STUDENTS' RIGHTS

The general concept of students' rights is that every child has the right to receive a free and appropriate

rights are protected, will that interfere with other students' rights? Through the blurred boundaries emerge some general rights that students receive, such as those pertaining to expression, discipline, suspensions and expulsions, corporal punishment, searches and seizures, school violence and safety, confidentiality, discrimination, and special needs.

Freedom of Expression

A student's right to free expression is one of the most frequently occurring topics in the literature. These rights include many areas such as dress code, school publications, speeches, conversations, and even Internet communication. With so many different areas of expression, it is often challenging to have a clear standard of policies and procedures as it pertains to a student's use of communication. In addition, laws governing expression are flexible. This flexibility, however, has the potential to strictly limit a student's desire to express himself or herself freely and to develop as an individual through this expression.

There is a constant requirement for schools to balance the need for a safe school environment and the right of students' expression. It is important to respect the rights of students, but on the other hand, these students are under the protection and care of adults who work in the schools.

The First Amendment of the U.S. Constitution guarantees freedom of speech; however, cases have been made that students do not necessarily enjoy this privilege to its full extent. The Supreme Court has gradually limited students' rights in terms of speech. However, if a student's speech is not a true threat, authorities are obligated to allow the student to express him- or herself freely. Students' freedom of expression cannot be upheld if such expression threatens the general operation of the school or leads to the denial of other students' rights. In addition, schools have the right to eliminate speech that is inappropriate for the student audience. A student's speech must be consistent with the values of the school, and the school officials have the leverage to decide which speech is inappropriate and unacceptable. School staff members are given the power to decide if a student's speech will jeopardize the accepted values and practices in a particular school setting.

Schools also have the power to regulate speech that may be representative of the school even if it does not happen on the school grounds. If a student's

expression during out-of-class times has the potential to disrupt the educational process or endanger other students, school authorities have the power to limit that expression. One area that schools have monitored is school newspapers or other publications that may contain material that is not suitable for the maturity level of the school audience. In this situation, school officials may prevent students from publishing whatever they feel, requiring that the questionable information be removed from the school publication. There have also been cases where students have had their free expression through the Internet regulated because of inappropriate communication about things such as school violence and hatred toward the school and specific staff.

Another area of expression that is regulated in some schools is dress. Certain school officials feel that loosely regulated dress codes hinder school progress. Some staff members feel that it can be a distraction when students are competing with each other on the latest fashion. Other students may come to school in inappropriate clothing that infers things of a sexual, prejudicial, or violent nature. These types of clothing expressions follow the same guidelines when it comes to students' rights. Students are allowed to use creative expression until it jeopardizes the rights of other students or disrupts the educational process of the school. These guidelines are based on the subjective decisions of the school officials who regulate this expression.

One of the major elements guiding the regulations on expression is the threat of violence. School staff members evaluate forms of expression for their potential as threats to the school atmosphere. If a student's expression is considered to interfere with the safety of the school and puts other students at risk, then school officials are allowed and obligated to stop this form of expression. School authorities have considerable leniency when it comes to these regulations.

Students in general seem to have a certain amount of freedom when it comes to their expression; however, their rights are limited when it comes to threatening or inappropriate expression. One benefit to this regulation is that students learn firsthand the complexity of society. They are able to learn how to handle their expression with a sense of responsibility and self-regulation, keeping in mind the common good of the entire student body when they are expressing themselves. On the other hand, there is a possibility of students losing opportunities for creative expression or even for cries for help because of these regulations.

Discipline

In any disciplinary situation, the student does have rights. In any circumstance, especially one that ends up in court, the student has a right to an advocate who is knowledgeable about the student's rights and can ensure that the student's side will be heard and respected during a hearing. Every student has value and rights regardless of the behaviors and actions in which he or she may have taken part.

In addition, general education students also have a right to appropriate education, and if the behaviors of a particular student are disrupting that environment, it may be necessary to remove that disruptive student from the general education classroom. Some students have disabilities that cause behaviors that are out of their control, yet still a hindrance to the teaching of the classroom. In situations such as this, the rights of the general student body may take precedence over the rights of that individual child. The individual child may be relocated to another classroom or even another school if doing so satisfies the rights of an entire classroom or school.

Suspensions and Expulsions

Suspensions and expulsions have become a popular form of discipline in the schools. In these situations, students still have rights. A central right during any forced absence from school is that students are given minimal due process proceedings. The students are to be made aware of the charges brought against them. Once these charges are brought to their attention, the students also have a right to dispute them. These rights all must be honored before even a short suspension. For longer suspensions and expulsions, even more complicated procedures are necessary to allow for students to exercise their full rights. In addition, students may not be counted absent and penalized academically for missing class during any forced time away from school.

These rights also carry over to students with disabilities along with additional rights that must be granted to this specific population of children. A student with a disability must not be denied free and public education because of a disciplinary procedure. This denial would happen through changing a student's placement as set out in his or her individualized educational plan. It could also happen if the student were to miss an excessive amount of school

because of suspensions. And if the student with a disability displays behavioral problems that are a manifestation of his or her disability, he or she cannot be suspended for those actions. However, if the behavioral problems are not a manifestation of the student's disability, he or she may be disciplined in the same manner that a typical student would be for suspensions up to 10 days. However, if the suspension is for a longer period, the district and the student's parents must agree on an alternative setting. These protections also exist for students who are not yet identified as having a disability, but may in fact have a disability and may be eligible for special education services.

Corporal Punishment

It is not unconstitutional to use corporal punishment in the schools. As with many areas of student rights, school officials are expected to use their own discretion when it comes to the use of corporal punishment. The punishment must be proportionate to the action that led to the discipline. Also, the punishment must not be guided by malice, and it must not inflict severe injury on the student. Court decisions have guided the idea that school staff are allowed to use corporal punishment when it is necessary to discipline a student and to allow for proper education to take place. Although corporal punishment is constitutionally allowed, most states have laws against the use of corporal punishments in the schools. It is meaningful to note that only at the local level do some students have the right to not be physically punished while attending schools.

Searches and Seizures

Another major area in the literature as it relates to students' rights is searches and seizures. Increased attention on school violence and drug use has caused more desire and need to keep a watchful eye on the activities of students. School officials have gained a significant amount of leniency when it comes to searching and confiscating things from students. The laws and regulations around these practices are very vague and leave a lot of the judgment up to the school performing the search. The U.S. Constitution has yet another amendment that would normally protect students against this type of procedure. The Fourth Amendment allows citizens to be free from unreasonable searches, but as with the other amendments, this one is adjusted in the schools. The need to maintain

safe schools outweighs the rights of students to be free from searches. However, this does not mean that students have no rights when it comes to searches and seizures. This is another area where a balance must be achieved between the greater good of the school and each student's individual rights.

When students are being searched, there are different rules that school personnel must follow. Law enforcement officials are required to establish probable cause and must secure a warrant before performing a search. Police are allowed into the schools to question or arrest students, but students do have the right to remain silent during any questioning. Police are also not allowed to remove students from school unless they are placed under arrest. School staff, however, do not need a warrant or probable cause to search a student. These staff members only need reasonable suspicion to conduct searches. The reasoning behind this is that a threat may need immediate attention, and school staff may put the school and other students in jeopardy if they have to wait to obtain a warrant or justify probable cause. Schools must constantly balance the risk of being too hands-off and being too excessive when it comes to searching students. Schools need to be careful to maintain the students' rights, while at the same time protecting the school against potential disturbances.

During searches, certain procedures and policies must be followed. If a school official has reasonable suspicion to search a student, he or she must have facts displaying the basis for the search. He or she also must uphold appropriate search strategies as they relate to the student's gender and maturity level. In addition, the search should not be more intrusive than necessary. School and law enforcement officials may search students without reasonable suspicion if they are given voluntary consents by the students. These consents must take into consideration the age, education, and mental capacity of the students. However, it is not required that students be advised of their right to refuse to give consent.

Some scenarios call for different procedures to be followed. For example, when a school district has an established history of problems, it is allowed more search opportunities. School district personnel may perform random and targeted searches through measures such as metal detectors and parking lot sweeps in order to prevent weapons and drugs from being brought into schools. In addition, lockers are considered part of the school facility, so often there is little

privacy provided to students when it comes to searching their lockers. Also, athletes and members of other school organizations have a lesser degree of privacy and are subjected to random drug testing. These scenarios display the flexibility that authority figures have when trying to maintain a safe and drug-free school system while at the same time keeping the best interests of the students in mind and upholding the students' rights to the greatest degree possible.

School Violence and Safety

Safety concerns also place restrictions on students' rights. After school shootings aroused public concern, there has been an increase in security in the schools. Students have a right to privacy and freedom of choice, but the potential for school violence has outweighed these rights in many circumstances. Security officers have, in many instances, free rein to search and question students even in the absence of suspicious activity. Many times, the idea of a greater good—safety and security in schools for all children—outweighs a student's right to privacy.

Confidentiality

Students have had records kept on them ever since they entered school. There are many rights involved with having these records on file. First of all, students and parents should be educated annually on their rights under the Family Educational Rights and Privacy Act. They have the right to view their files at any time and have the right to challenge any information they believe is false. Also, before any personal or confidential information is released to an unauthorized person, written consent must be obtained from the parent or legal guardian. Also, information should not be shared with individuals who do not have a need to know or have no legitimate interest in the child. Finally, only objective information should be placed in the student's file. Information on minor infractions that may change or information guided by opinion should not be in the student's file.

Discrimination

Students have the legal and ethical right to not be discriminated against in the school setting. Regardless of race, gender, or sexual orientation, all students are entitled to equal access to education and the opportunity to

learn in a safe environment. Members of racial minority groups have the right to have the same level of expectations placed on them as White children. These expectations include teachers not assuming a student of a certain race will not perform at the level of other students, teachers encouraging growth and enrichment in all students equally, and students being subjected to the same disciplinary procedures regardless of race. Girls and boys also are entitled to be provided an equal experience. It is illegal to provide extracurricular activities unequally to boys and girls. Additionally, girls cannot be removed from school for being pregnant. Sexual minorities also deserve protection against unfair treatment and must be provided an opportunity to explore themselves without being harassed and looked down on. Another right associated with discrimination is for minorities to have equal access to literature, history, and experiences that reflect their own background, not just the background of majority groups.

Special Needs Students

Another area of huge concern is the area of disabilities. Students with disabilities have the right to the least restrictive learning environment. However, these rights are blurred in certain situations. If an inclusive learning environment as part of the mainstream educational process is not conducive to a child's education, the student has a right to special services and/or educational settings that are more appropriate to his or her needs. This right often comes in conflict with budget issues, but this right is to be guaranteed by the district regardless of its financial situation.

All students have the right to a free and appropriate education, and students with disabilities have the same rights and have the right to experience this in the same schools and programs as students without disabilities. Students with disabilities have the right to an individualized education program that is developed and implemented with the goal of the student receiving education in the least restrictive environment and with all the needed services and accommodations to accomplish this. This is to be done at the school's expense and at no cost to the parent. Also, students have the right to evaluations that check the progress of their educational plan, and the parents and student have a right to participate and be a part of this planning. If the parents or student are in disagreement with the school's evaluation, they have the right to get an outside evaluation to determine the student's

eligibility for services. In addition, when a student receiving special education services reaches the age of legal consent, he or she must be privileged with all legal rights of a person his or her age regardless of the disability, if competent to do so.

Also, students have the right to be treated as individuals in the school setting. If interventions can keep a student out of special education, then those accommodations need to be made. Also, if a student is being tested for special education, the test should be administered in the student's native language so that he or she has an equal chance to perform to his or her ability on the test. Students' behaviors that are a manifestation of their disability should not be held as grounds for suspension and expulsion, but instead the parents and school staff should work together to advocate for the best placement for the student, whether it be the traditional school or an alternative placement. Students should also have a level of choice when it comes to their schooling. Children all learn differently, and whether they struggle or are extremely gifted, they deserve to be challenged and to be given the opportunity for growth through educational experiences that they find rewarding.

Future Implications

Students have basic rights that are meant to protect their well-being and educational attainment. Along with these rights come infinite possibilities for complications and adjustments. Special circumstances may lead to rights being altered or disregarded with a greater objective in mind. Education is meant to aid students in their journey to a fulfilling future, and every student has a right to take part in this experience with as little restriction and as much benefit as possible.

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See also Conflict; Discipline; Parent–Teacher Conferences

Further Readings

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