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Dear Louisiana School Leaders,

As public schools across Louisiana prepare to welcome students back this fall, it is imperative that educators, administrators and board members respect the constitutional rights of all students. The ACLU of Louisiana has long stood up to defend the rights of students in Louisiana public schools, and we will remain vigilant against attempts to infringe on those rights. We hope that you will share this letter with your individual members so that we can support school administrators' understanding of students' rights.

The Supreme Court ruled in 1969 that students do not "shed their constitutional rights to freedom of speech or expression at the schoolhouse gate." This is true for other fundamental rights, as well. We encourage all public school leaders to review the students' rights handbook available on our website, which outlines students' legal protections on the state and federal level.

Specifically, we would like to call your attention to five areas where students' rights often come under threat here in Louisiana and across the country:

- 1. School Searches.** In order to search a student's property without a warrant, school officials must have reasonable suspicion that the search will uncover evidence that the student violated a school rule. A search of a student must not only be justified, but also "reasonably related in scope to the circumstances which justified the interference in the first place." Importantly, this protection extends to cell phones. Suspicion of a school infraction such as unauthorized possession of a cell phone does not justify a blanket search of the content of a student's phone, such as looking through her photographs, social media, and contacts.
- 2. LGBTQ Students' Rights.** Educators have a solemn obligation to cultivate a safe learning environment for all students. But bullying of LGBTQ students can be pervasive and is all too often ignored or encouraged by the schools themselves. LGBTQ students have a right to be who they are and express themselves at school. Students have a right to be out of the closet at school, and schools have a responsibility to create a safe learning environment and address incidents of harassment.

Public schools are not allowed to threaten to “out” students to their families, overlook bullying, force students to wear clothing inconsistent with their gender identity or bar LGBTQ-themed [clubs](#) or [attire](#).

While Louisiana does not explicitly protect the right of transgender students to use restrooms and locker rooms consistent with their gender identity, several courts have ruled that excluding transgender boys and girls from using the same restrooms as other boys and girls violates federal education law.



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3. **Immigrant Students’ Rights.** Schools cannot discriminate against students on the basis of race, color, national origin. Undocumented children cannot be denied their right to a free public education, but some schools continue to create exclusionary policies. The ACLU has gone to court to stop school districts from requiring families to prove their immigration status in order to enroll their children in school. In addition, students with limited English proficiency cannot be turned away by schools, which must provide them with language instruction.
4. **Speech Rights.** Under the First Amendment, students have the right to speak out, hand out flyers and petitions, and wear expressive clothing in school — as long as they do not disrupt the functioning of the school or violate school policies that don’t hinge on the message expressed.
5. **Religious Liberty.** The First Amendment to the United States Constitution prohibits public schools from proselytizing, sponsoring prayer, or otherwise promoting religion. Article I of the Louisiana Constitution provides similar protections, and the Louisiana Preservation of Religious Freedom Act makes most government restrictions on religious exercise very difficult to uphold. In the school context, those laws ensure that schools may neither tell students how to worship, who or what to worship, or whether to worship at all, nor may schools participate in or sponsor worship, or favor one religion over another.

Upholding these legal protections is essential to creating a learning environment that is safe, equitable and inclusive. Please do not hesitate to reach out with any questions you may have about these and other issues relating to students’ rights.

Sincerely,

A handwritten signature in black ink that reads "Katie Schwartzmann". The signature is written in a cursive, flowing style.

Katie Schwartzmann
Legal Director
ACLU of Louisiana