



J Policies: Student Rights

May 10, 2023

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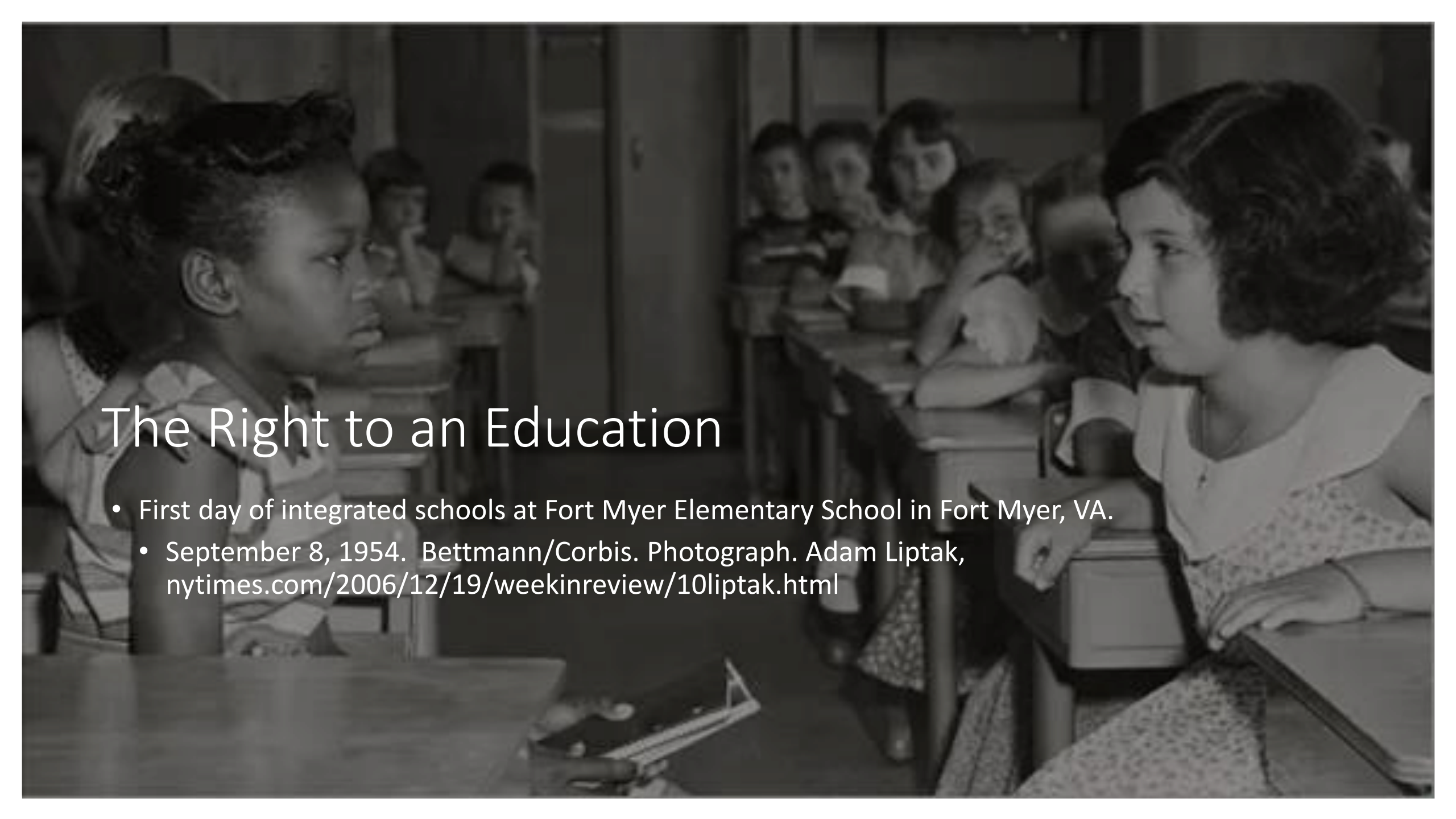
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Agenda

- Student Rights
 - Right to Attend School
 - School Funding – Right to what exactly?
 - First Amendment Rights
 - Fourth Amendment Rights
 - Student Discipline

A black and white photograph of a classroom. In the foreground, a young Black girl on the left and a young white girl on the right are seated at their desks, looking towards the left. They are both focused and attentive. In the background, several other students of various ethnicities are seated at their desks, also looking in the same direction. The classroom has a simple, functional appearance with wooden desks and a plain wall.

The Right to an Education

- First day of integrated schools at Fort Myer Elementary School in Fort Myer, VA.
- September 8, 1954. Bettmann/Corbis. Photograph. Adam Liptak, [nytimes.com/2006/12/19/weekinreview/10liptak.html](https://www.nytimes.com/2006/12/19/weekinreview/10liptak.html)



Right to attend school. (Brown I, 1954)

- Education is a function of state and local governments.
- Where the state has undertaken to provide [education], it must be available to all on equal terms.



Local control of schools comes with responsibility. (Brown II, 1955)

- School authorities have the primary responsibility for elucidating, assessing and solving the varied local school problems.
- Local courts decide whether school authorities, in good faith, implement equal protection.

Supreme Court rules “freedom of choice plan” unconstitutional. (Green, 1968)

- Courts analyze state plans under the commands of Brown.
- The burden is on the school board to provide a plan effectuates the requirements of Brown.



Education is not a Federal Fundamental Right. (1973)

- State funding of education will be analyzed by state courts and not the federal court system.
- States found massive disparities in education funding across the nation and many invalidated their systems.



Arizona's school finance system must not create gross disparities among schools. (1994)

- General and Uniform: [the State] shall provide for the establishment and maintenance of a general and uniform public school system. . . .

Article XI, § 1 of the Arizona Constitution



Districts continue to argue that funding system is not General and Uniform. (2017 to present)

- Student right to a general and uniform education includes questions of adequate physical spaces, facilities in need of repair, and basic tangible needs such as air conditioning and clean environments.



If Courts Determine Student Educational Rights were Violated-

Desegregation

- Equalize-Student Access and Educational Opportunity
- Issued by Federal and State Courts
- Nearly 200 districts nationwide
- 18 in Arizona



Desegregation Orders-Equalize Student Educational Rights

Race Issues

- Define, Interpret, Monitor

Funding Disparities

- Court Oversight-Corrects and Creates





Desegregation in Practice

TUSD:

- Practicalities of ensuring student's rights
- Common issues
- Managing a district under Court oversight





Freedom of Speech Rights

Core tenets:

- Students command the right to freedom of speech/expression while at school.
- Discipline is permitted for speech that “materially and substantially” disrupts the school environment.
- Administrators may regulate school-sponsored speech, such as speech appearing in a newspaper.



Speech at school is not absolute.

Limitations on student speech:

- Drug Speech - Bong Hits for Jesus
- Lewd speech - Bethel
 - But see – Student speech on Snapchat - Mahanoy



A public-school student possesses First Amendment rights.

Notable Cases:

- Let's Go Brandon (political)
- Jesus Loves Me mask (religious)



First Amendment Rights

District or School Administrator of Student Rights



First Amendment Rights



A Classroom Perspective- Freedom of Expression

- **A student's right to believe and follow personal viewpoints are protected** as long as they do not infringe upon or denigrate the rights of others.



One method is a **Socratic Seminar** for a meaningful exchange of viewpoints and beliefs.



- **Policy JICEC** also ensures **students are not discriminated against on the basis of religious expression or viewpoints.**



Remember the rubric! Students should never be penalized or rewarded based on a religious viewpoint.



- **A student's right to wear clothing, accessories, and jewelry that display religious messages or symbols.**

First Amendment Rights



Regulating Off-Campus Speech

- **Policy JK – Student Discipline** - Districts may regulate certain types of off-campus student speech.
- Circumstances that may implicate the District's off-campus regulatory interest include, but are not limited to:
 - ❖ Serious or severe bullying or harassment targeting particular individuals.
 - ❖ Threats aimed at teachers or other students.
 - ❖ The failure to follow rules concerning lessons, the writing of papers, the use of computers, and participation in other online school activities.





Students' Rights



JI-R - Student Rights and Responsibilities – Students have a right to be made aware of the policies set forth by the Governing Board and school.

Access to Policies regarding Students' Rights:

<https://policy.azsba.org/asba/browse/allmanuals/welcome/root>



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Fourth Amendment applies to students.

Core Tenets:

- Students have Fourth Amendment Rights at School
- But the more lenient standard of reasonable suspicion replaces the ordinary standard of probable cause.

Fourth Amendment in Practice – Searches, Policy, How Administrators and Teachers apply this rule

Administering Students' Fourth Amendment Rights at School:

- Balance district/school/student obligations
- Reasonable Suspicion vs Probable cause
- Loco parentis



Fourth Amendment Rights



- **JIH – Student Interrogations, Searches, and Arrests** - Discusses the rights of school officials to search and seize property, including school property temporarily assigned to students – for example, iPads, when there is reason to believe that some material or matter detrimental to health, safety, and welfare of the student exists. Lockers, desks, and other school property may also be inspected at any time with or without reason or with or without notice by school personnel.
- **JLIE-R – Student Automobile Use and Parking** – “The interiors of student vehicles may be inspected whenever a school authority has reason to believe that illegal or unauthorized materials may be contained inside. Such patrols and inspections may be conducted without notice, without student consent, and without a search warrant.”



Students have rights to due process.

- Due process guarantees apply to non-trivial public school exclusions.



Other Students' Rights



with summaries:

- **III – Student Concerns, Complaints, and Grievances** – If students have concerns that their rights have in fact been violated, there are procedures in place to present a complaint or grievance. Students may raise a complaint if they believe their constitutional rights have been violated, they have been denied equal opportunity, they have received discriminatory treatment, or there is a concern for personal safety. According to this policy, students must make the accusation within 30 calendar days of the time they knew or should have known there were grounds for the complaint by either using the exhibit/form provided in the District's Policy Manual or by making a verbal complaint to any staff member who will then immediately inform an administrator so an investigation may ensue.
- **IJAB – Limited Open/Closed Forum** – Under this policy, students in grades 7 and above may hold meetings if such meetings are voluntary and student initiated; there is no sponsorship by the District or District employees or governmental entities or employees of governmental entities; District employees who are present at religious meetings will be present only in a non-participatory capacity; these meetings don't interfere with the District's educational activities; and that non-school persons do not direct or regularly attend these student group meetings.



Other Students' Rights



with summaries (continued):

JICK – Student Bullying/Harassment/Intimidation – It is the right of every student to be educated in a positive, safe, caring, and respectful learning environment. To ensure these rights, students' report of bullying/harassment/intimidation are confidential; upon making this report, students receive a written copy of their rights, protections and support services available to them, and an investigation ensues.

JKD – Student Suspension – The student has a right to due process which includes notice and hearing, and in the case of long-term suspensions, an appeal.

JKE – Expulsion of Students – Students may be represented by counsel, may present witnesses, and the student or counsel may cross-examine witnesses presented by the District. The formal hearing is conducted in private (hearing officer)/executive session (governing board) unless parents/guardians/emancipated student requests in writing that the hearing be open to public attendance. The decision made by a hearing officer may be appealed to the Governing Board.



Other Students' Rights



with summaries (continued):

JI-R – Student Rights and Responsibilities – A brief summary of **students' rights** listed in Regulation JI include the following: the right to a valuable, meaningful education; a meaningful curriculum where they can voice their opinions through student government representatives in the development of the curriculum; physical safety, safe buildings, and sanitary facilities; consultation with teachers, counselors, administrators without fear of reprisal; free elections and the right to seek and hold office; be made aware of administrative and/or faculty committee decisions and be aware of the policies set forth by the Governing Board and school; to not be subjected to unreasonable or excessive punishment; be involved in school activities; and express their viewpoints.

JICE – Student Publications – the school District recognizes the value of, supports, and encourages official school publications in teaching journalism, English, writing, and other skills. Students are required to submit publications to the Superintendent or school Administrator for approval prior to distribution.





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