



Education is a
Fundamental Right



The American Civil Liberties Union (ACLU)
works to preserve and guarantee the protections
of the Constitution's Bill of Rights.

Children in California have rights under the U.S.
and California Constitutions and state and federal
civil rights laws to equal educational opportunity.

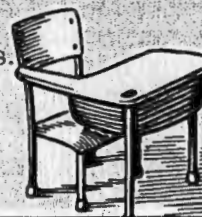


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The School-To-Prison-Deportation Pipeline: What is it?

The school-to-prison-deportation pipeline is created by school practices that prematurely connect students to the criminal justice system and/or immigration enforcement system. These school practices include:

- ❖ Zero-tolerance discipline policies.
- ❖ Criminalizing violations of school rules.
- ❖ Increased presence of police on school campuses, leading to increased arrests.
- ❖ "Push-out" of students into alternative schools.
- ❖ Collaboration with immigration enforcement.



Rights of Immigrant Students

Under state and federal law, school districts must provide all children equal access to education, regardless of their or their parents' immigration status.

- ❖ *Plyler v. Doe*, 457 U.S. 202 (1982): children with irregular immigration status have the same right as other children to a free K-12 education.
- ❖ *LULAC v. Wilson*, 908 F. Supp. 755, 774 (C.D. Cal. 1995): struck down as unconstitutional those sections of Prop 187 that required schools to verify the immigration status of students and their parents.

We advise districts to adopt the most protective policies possible for their students to safeguard these rights.



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Why Safe Haven / Safe Zone Policies?

- Protect students' civil rights.
- Precautionary in case of future ICE activity.
- Reassure students and parents, show solidarity. Send a message to all that all students are valued.
- Protect some of the most vulnerable members of the school community.
- Protect student data which could be used adversely by immigration authorities.
- Districts are hurt when students and families leave.



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Key Elements: Safe Haven Policies

The ACLU-NC has model policies we are happy to share: lnelson@aclunc.org.

- ❖ Explicit refusal to cooperate unless administrative subpoena or court order – then should go to legal counsel. Set out specific process for staff to follow. Staff should not honor ICE detainers or requests.
- ❖ Explicit promise to protect student info to extent permitted by law – e.g., no “directory info.”
- ❖ Set out process in event of parent removal.
- ❖ Train teachers on rights of immigrant students.
- ❖ Commit to connect students with KYR materials.



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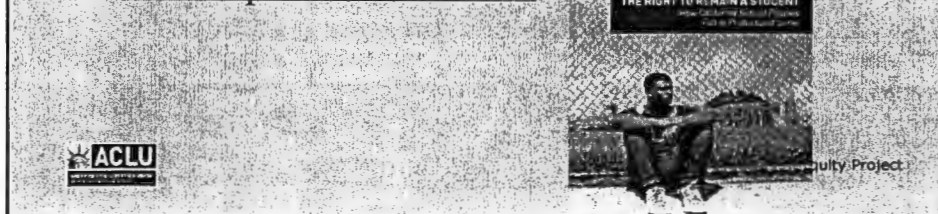
Far Too Many Students Are Referred to Police in Schools

- ❖ In the 2013-2014 school year, 24% of elementary schools and 42% of all high schools in the U.S. had a full-time assigned police officer.
- ❖ 51% of high schools with high enrollment of Black and Latino students had a full-time police officer.



Police in Schools: Disparate Impact

- ❖ In 2013-2014, 1.6 million students in the U.S. attended a high school with a full-time police officer, but no counselor.
- ❖ A 2009 study found that having a regularly-assigned police officer at school more than doubled the rate of arrests for "disorderly conduct."
- ❖ The ACLU of California analyzed the federal government database for 2013-14 and found severe racial disparities in California.



Disparate Impact on Students in California Schools

Native American students were **3.4 times** as likely, Black students were **2.7 times** as likely, and Hawaiian/Pacific Islander students were **1.4 times** as likely as white students to be referred to police in school.

Additionally, after receiving a referral to police, white students' likelihood of being arrested **decreased**, while Black, Latino and Asian American students' likelihood of being arrested **increased**.



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Disparate Impact on Students in California Schools

- ❖ Low-income students are also negatively impacted by school police practices. The average arrest rate in California schools where more than 80% of the students receive a free or reduced-price lunch is **seven times** the average arrest rate in schools where fewer than 20% of students receive a free or reduced-price lunch.
- ❖ And students with disabilities are about **three times** as likely as students without disabilities to be referred to law enforcement and arrested.



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School Police: Brief Overview of Federal Law

School districts and school staff are legally responsible for the acts of school police in a number of circumstances.

- When a police officer commits an unconstitutional act that represents official district policy OR custom – even if the custom never received formal approval from the Board or Superintendent.
 - E.g., failure to train employees in the face of evidence that lack of training will cause constitutional violations



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School Police: Brief Overview of Federal Law

School districts and school staff are legally responsible for the acts of school police in a number of circumstances.

- When employees act in the scope of their employment and harm a student.
 - E.g., directing a school police officer to handcuff a student unlawfully.
- School employees can also be held individually liable.



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School Police: Brief Overview of Federal Law

Fourth Amendment: protects students from unreasonable searches, unlawful seizure, and excessive force.

- Sonora School District (2014): staff called the police when a calm but noncompliant 11-year-old student with disabilities refused to come in from recess. Police handcuffed the student and put him in a patrol car. The school district settled, but the police department fought it – and the student won at trial on his Fourth Amendment claims and state law claims of false arrest and intentional infliction of emotional distress.



School Police: Anti-Discrimination Law

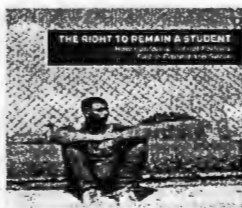
- Fourteenth Amendment
- Federal Civil Rights Act (Title VI, Title IX)
- Title II of the Americans with Disabilities Act
- California Government Code Section 11135
- California Unruh Civil Rights Act
- U.S. Dep't of Justice & U.S. Dep't of Educ., Dear Colleague Letter on the Nondiscriminatory Administration of School Discipline (2014): Schools cannot divest themselves of responsibility for the nondiscriminatory administration of school safety measures and student discipline by relying on school resource officers, school district police officers...or [other] law enforcement personnel.



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Some Key Findings of ACLU-CA Study

- ❖ Many districts have conflicting, vague, or absent law enforcement policies that provide little or no meaningful guidance to school staff on when to call police to campus or how to interact with police.
- ❖ Very few districts have policies limiting police contact for rule-breaking or minor offenses.
- ❖ An estimated less than 1% of districts statewide require an adult (not a police officer) be present to make sure the student's civil rights are observed during police questioning.



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Model Policies

The ACLU of California has created a comprehensive set of model school district policies, covering a broad range of topics, available at:

www.aclunc.org/righttoremainastudent (scroll to the bottom of the page for the appendices)



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California Electronic Communications Privacy Act (CalECPA)

Effectuated a major change in the law governing the search of student cell phones and other electronic devices.

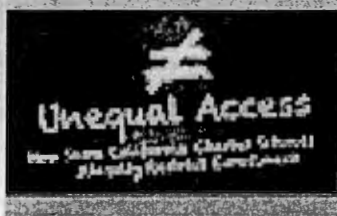


- District and school staff may now only search a student's cell phone or other electronic device with a search warrant issued by a judge based on "probable cause" that the phone contains evidence of a crime. There is an exception for searching a phone in an emergency, but only if there is "danger of death or serious physical injury to any person."



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Charter School Admissions and Enrollment Requirements



The ACLU of Southern California and Public Counsel released a report in July 2016 about exclusionary enrollment policies at 253 charter schools in California.



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Charter School Admissions and Enrollment Requirements

All students, including students in charter schools, have a constitutional right to equal access to educational opportunity.

- **Like other public schools, it is illegal for charter schools to select which students to enroll.** The California Charter Schools Act requires charter schools to “admit all pupils who wish to attend.”
- **Some unlawful barriers found in this study**
 - Denying enrollment to students who do not have strong grades or test scores.
 - Expelling students who do not maintain strong grades or test scores.
 - Denying enrollment to students who do not meet a minimum level of English proficiency.



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AB 1266 Is Still In Force

Affirms existing anti-discrimination law in California requiring that transgender students, like all students, be allowed to participate fully in school so they can succeed. Students have the right to:

- Be addressed by the name and pronouns that correspond with the student's gender identity
- Dress in a way that aligns with their gender identity
- Use the facilities (restrooms and locker rooms) that align with their gender identity.
- Participate in sports and PE classes that match their gender identity.



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