

This brochure answers some frequently asked questions about students' rights as they relate to technology and social media. This information applies to K-12 public school students in Rhode Island. Rules for colleges and private schools will differ. Additionally, public school district policies on these issues will vary greatly. More information about these policies can generally be found in the school's student handbook.

### **IS MY SCHOOL ALLOWED TO MONITOR OR CENSOR MY ONLINE ACTIVITY OUTSIDE OF SCHOOL?**

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In general, your school cannot censor things that you post during off-school hours using a personal email address or account, and on a private computer with a private internet connection. That includes the right for you to share information on a blog, or via social media or personal email that is critical of the school or school officials. However, some courts have ruled that students can be disciplined for off-campus online conduct if it creates a "substantial and material" disruption to the school environment. Here in Rhode Island, for example, the Department of Education ruled that a student could be disciplined for writing a sexually-explicit song about a teacher and posting it online when copies of the song were then brought to school by other students. If your post demonstrates that you broke school rules, the school can discipline you. For example, you could get in trouble if you post a video of yourself and friends smoking on school property. And if you post about doing something illegal, law enforcement may use it as evidence against you.

### **CAN I GET IN TROUBLE AT SCHOOL FOR SOMETHING I TEXT, EMAIL OR POST ONLINE WHILE I AM THERE?**

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As a public school student, you have a constitutional right to free speech. You have the right to express your opinions and beliefs, even if they are controversial, as long as you do so in a way that doesn't disrupt class or other school-related activities. However, most schools have internet usage and cell phone policies governing the school day. If you are using a school computer or email account, school officials can monitor your activity. Any online activity using school computers, internet access, or email accounts that violates school policies, creates a disruptive learning environment, or violates others' rights could result in disciplinary action. Also, state law generally prohibits students from accessing social networking sites while at school, and many schools have rules limiting the use of cell phones during the school day.

### **CAN MY SCHOOL FORCE ME TO LOG ON TO MY FACEBOOK, EMAIL, OR OTHER PERSONAL ACCOUNT IN ORDER TO VIEW MY ACTIVITY?**

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In most cases, your school cannot force you to log into your personal accounts in order to view your activity. However, if school officials have reasonable suspicion that you've done something

### **GENERALLY, YOUR SCHOOL CANNOT CENSOR OR DISCIPLINE YOU FOR POSTING CONTENT OR SENDING A MESSAGE THAT:**

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- Is sent during non-school hours
- Is sent using an off-campus internet connection
- Is sent using a non-school computer
- Is sent using a non-school email address
- Does not substantially and materially disrupt school activity

against the law, they may contact the police. Under those circumstances, the police might be able to get a warrant and work with your school to access your personal accounts.

### **CAN MY SCHOOL TAKE MY CELL PHONE? IF SCHOOL OFFICIALS CONFISCATE MY CELL PHONE, ARE THEY ALLOWED TO SEARCH IT?**

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If you violated school policy governing cell phone usage during school hours, then your school can confiscate your phone. However, in most cases, the school is not allowed to access the personal information on your phone even if they confiscate it. If they take your phone for a particular reason – for example, another student claims you sent them an inappropriate text message during the school day – they may be allowed to check for that particular message, but they should not be checking additional information on the phone, such as your contact list, photos, etc. If a school official asks for permission to search your phone, you do not have to give your permission.

### **THE ACLU OF RI RECENTLY RELEASED A REPORT:**

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#### ***High School Non-Confidential: How School-Loaned Computers May be Peering Into Your Home***

Among other findings, the report showed that many school districts in the state give themselves the right to remotely spy on students through the use of school-loaned laptop computers, and in many districts, school computer loan policies require students and parents to give up any right to privacy in order to participate. The ACLU is investigating the legality of these policies and their impact on student privacy rights.

For more information, and to read the full report, visit [www.riaclu.org/know-your-rights/reports](http://www.riaclu.org/know-your-rights/reports).

## CAN I GET IN TROUBLE FOR “SEXTING?”

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It is illegal for anyone under the age of 18 in Rhode Island to engage in “sexting.” That term is defined in Rhode Island law as the transmission, via cell phone or similar devices, of certain nude images of yourself – specifically, graphic photos of your genitals or pubic area. If the act of sexting causes a disruption to your school’s learning environment, the school can discipline you. Rhode Island law states that sexting constitutes a status offense – which means you can be sent to family court to face a judge, but you will not face criminal penalties such as a prison sentence. However, because of the way the law was written, it technically allows minors who engage in sexting to be charged with child pornography instead. The ACLU believes such a charge could be legally challenged.

## WHAT ARE THE LAWS REGARDING CYBERBULLYING?

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Bullying is a very serious problem. No student has the right to say things, online or elsewhere, that put you in reasonable fear of harm to yourself, your siblings or even your belongings. However, the ACLU believes that the state law governing bullying is so broadly worded that it could unfairly be used to punish a student’s right to free speech. That is because Rhode Island law defines bullying (and cyberbullying) to include any communication by a student that, among other things, causes another student “emotional harm,” even if there was no intent to cause harm. The law also allows schools to punish students for “bullying” happening inside *and* outside of school, and even encourages police intervention in many cases. So if you use technology, including social media, to threaten or spread lies about other students or teachers, you could face discipline under your school’s anti-bullying policy. In some instances, however, punishment for cyber bullying may violate your constitutional rights.

For nearly 100 years, the American Civil Liberties Union has been our nation’s guardian of liberty, working in courts, legislatures, and communities to defend and preserve the individual rights and liberties that the Constitution and laws guarantee everyone in this country.

The information in this brochure should not be taken as legal advice. If you have additional questions, or feel your rights may have been violated, please contact an attorney or the ACLU.

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ACLU of Rhode Island  
128 Dorrance Street, Suite 400  
Providence, RI 02903  
(401) 831-7171  
[www.riaclu.org](http://www.riaclu.org)

## KNOW YOUR RIGHTS: Students and Technology



Information and frequently asked questions related to students’ rights and technology.