

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

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

With certain exceptions, your school cannot censor things that you post during off-school hours while 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 that is critical of the school or school officials on social media, or via your personal email.

As recently as 2021, the Supreme Court affirmed this view when they ruled that a Pennsylvania public school violated the First Amendment for disciplining a student for a Snapchat she posted on a Saturday while off-school premises. The student, Brandi Levy, was removed from the junior varsity cheerleading team after she posted a snap of her and a friend with their middle fingers extended accompanied by the text "fuck school fuck softball fuck cheer fuck everything." In its ruling, the court affirmed that the student's snap was protected speech under the First Amendment, as it was posted off of school grounds and not at a school-related activity, and did not cause a substantial disruption.

However, the Court suggested that off-campus speech might not be protected in where the speech involved severe bullying, threats aimed at teachers or students, or the outside use of school computers. 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. On the other hand, we successfully represented a student who was disciplined for circulating a photo of a teacher unlawfully smoking on school property.

### **WHAT ABOUT USING MY SCHOOL-PROVIDED CHROMEBOOK AT HOME?**

Many schools provide free laptops or Chromebooks for students to take home, and school officials often claim the right to have access to all the information they contain, including the sites you have visited, emails you have sent, and so on. While these computers are school property and, therefore, school officials have certain powers over how you use them, the ACLU believes that you do not completely give up your privacy rights in using these computers, especially if they are given to students and their families for uses beyond schoolwork.

**THE ACLU BELIEVES THAT YOU DO NOT COMPLETELY GIVE UP YOUR PRIVACY RIGHTS IN USING YOUR SCHOOL'S CHROMEBOOK.**

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

As a public school student, you have a constitutional right to free speech. You have the right to express your opinions and beliefs in school, 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

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

- Is sent during non-school hours
- Is sent using a non-school computer
- Is sent using a non-school email address
- Does not substantially and materially disrupt school activity

creates a disruptive learning environment, or violates others' rights could result in disciplinary action. Also, some schools have rules limiting the use of cell phones during the school day, and those rules can be enforced.

### **CAN MY SCHOOL FORCE ME TO LOG IN TO MY PERSONAL SOCIAL ACCOUNTS OR ADD SOMEONE TO MY CONTACTS?**

No. A state law enacted in 2014 prohibits any school official or employee from requesting or requiring a student to 1) divulge their personal social media account info - or 2) add someone to their social media contacts. For example, a teacher cannot ask you to show them your private Instagram account.

### **CAN MY SCHOOL'S CLOUD SERVICE SELL MY PERSONAL DATA?**

No. A 2014 state law limits the use of student data by cloud computing service providers used by K-12 schools. Under the law, student data is solely to be used for the purpose of providing the cloud service. The law also specifically prohibits the use or sale of student data for commercial purposes, including advertising.

**THE 2014 STUDENT DATA PRIVACY LAW SPECIFICALLY PROHIBITS THE USE OF STUDENT DATA FOR COMMERCIAL PURPOSES, INCLUDING ADVERTISING.**

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

If you violated school policy governing cell phone usage during school hours, then your school can probably temporarily confiscate your phone. However, the school is generally not allowed to access the personal information on your phone even if they lawfully 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 – even if they may be allowed to check for that particular message, they should not be checking for additional information, such as your contact list, photos, etc. Keep in mind that if a school official asks for permission to search your phone, you do not have to give your permission.

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

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. RI 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 or 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?**

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.


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 cyberbullying may violate your constitutional rights, and you can contact the ACLU of RI for guidance if you feel you were unfairly punished.

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 the ACLU of Rhode Island.

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# KNOW YOUR RIGHTS

## STUDENTS & TECHNOLOGY

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