

# fundamental freedoms

## 1 what are they?

Fundamental freedoms are your most basic rights under the *Charter*.

2. Everyone has the following fundamental freedoms:
  - a) freedom of conscience and religion;
  - b) freedom of thought, belief, opinion and expression, including freedom of the press and other media of communication;
  - c) freedom of peaceful assembly; and
  - d) freedom of association.

**Freedom of conscience and religion** involve the right to hold and practice your religious or other beliefs as long as they do not threaten the safety or well being of others. An example of this would be the right to wear religious garments to school.\*



What are some other examples of freedom of conscience and religion in schools?

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\* **NOTE** Under the *School Act*, public schools must be secular (they can't endorse religious beliefs). In this way, you could say that they respect all religious and non-religious views by not promoting any one view over others.

## Freedom of peaceful

**assembly** is the right to gather, to protest, to march, to express yourself in a group. The next time you peacefully protest against the mystery meat at your school cafeteria you are exercising this right.



What limits, if any, should schools set on peaceful protest? Explain your reasoning.

**Freedom of association** is the right to do business, to hang out with and to meet and be with others. Within schools, a good example of freedom of association is school clubs.



Gay-straight alliance clubs are school clubs that promote tolerance, understanding and communication between straight and gay/lesbian/bisexual and transgendered students. Some schools have gay-straight alliance clubs, others don't. Would you support such a club in your school? What is your reasoning? Should students have the right to create clubs and join them whatever their principal or parents think?

For the rest of this section, we're going to focus on **freedom of speech**. Freedom of speech is the right to express yourself to others. This is a fundamental part of living in a free and open society. It is also necessary in terms of being able to exchange ideas. Without this exchange, how would we ever know what works best for us, and what doesn't? Without exposure to ideas, some good, some bad, some brilliant, some silly, some sick and twisted, life would be a lot less interesting. You might not have rap music, for example, because no one would've communicated to come up with the idea. Hmm... on second thought (just kidding).

Expression covers a lot of things. It can include speech, thoughts, writing, symbols, songs or art. It is any type of communication between people, including *actions* that say something. An example of expressive activity is burning a country's flag to express political beliefs, or dancing on a tabletop to express joy (be sure to have good balance though). The right to speak your mind also works in the reverse. If you have the right to speak, you also have the right to hear what others have to say. So, access to information is equally important.



**WARNING** free speech isn't a right that we can exercise without limits. There are limits, and these are usually designed to protect the safety and liberty of others. For example, courts have frowned pretty heavily on people who use speech in a way that can be shown to cause harm to others. The most famous example of this is the person who shouts fire in a crowded movie theatre. While the person doing the shouting might think it's funny, those who get injured or trampled escaping a fire that doesn't exist probably wouldn't agree.

## 2

## dress codes

What does how you dress have to do with free speech? Well, your clothes are a reflection of you. Your choice of clothes, hairstyle and other appearance-related things, say a lot about who you are and what you wish to tell others about yourself. For example, you may dress in native ethnic or religious wear because you identify with a country of origin, or with a set of religious beliefs. Other people may choose to dress like rap stars or walk around flashing Star Trek Vulcan signs.

You may find this hard to believe, but back in the prehistoric era, like the 1960's and 70's, hairstyles were often seen as forms of political expression. If you were a guy with long hair you were a

**facts:** Jeannie just got her nose pierced.

And her eyebrow. And her tongue, too. She picked jewelry to match her purple Mohawk. She walks into

the school and is told by a teacher to either take her face jewelry out or go home because the school has a new dress code. She is also advised to think about getting a new hairstyle.

Consider the following questions:



1. Are civil liberties issues involved here? What other issues are important to think about?

2. Is banning certain forms of dress or personal style a reasonable limitation on Jeannie's rights? Where would you be willing to draw the line?

3. Can employers set dress codes? If so, would that be a civil liberties violation?

rebel. In 1971, a pre-*Charter* case involving a dress code ban on "long hairs" in school went to court (*Re: Ward et al. and Board of the Blaine Lake School Unit No. 57*).

In *Ward*, the Court said that it was acceptable for schools to make and enforce dress codes. More recently, the issue of dress codes was tested in a case called *Devereux v. Lambton County*. The Court refused to consider freedom of expression arguments, and simply held that schools could create rules about clothing. It is likely that a future court will be asked to reconsider the question of whether dress codes should be permitted to set limits on students' rights to express themselves through appearance.

**3**

## student publications

Newspapers and other written materials are another important means by which people can communicate their ideas to others. Free press is so important, that a “free press” even merits special mention in the *Charter*. However, the right of the press to publish freely is not without limits. For example, you cannot damage the reputations of other people with lies. If you do so, you may find yourself slapped with a big lawsuit.

Student newspapers are one way in which students can publish their thoughts and voice their concerns. While most schools are sensitive to the need to allow students to express themselves, unfortunately censorship does sometimes occur. Where the school has legitimate concerns regarding the safety of students, it is understandable that they may want to stop a story.

However, a recent case in the local news shows that schools can go too far. An eighteen year-old editor of a student newspaper in Ontario was suspended for publishing an article that school authorities did not want published. The article was a funny story by another student being cut from the school’s volleyball team. In this case, both the author and the editor chose to take a stand against censorship despite the consequences. What would you do?

**4**

## access to information

Expression also works in the reverse. If you have the right to speak, you also have the right to hear or to see others’ ideas, to access the information that they are willing to offer you. From time to time we hear about censorship campaigns to stop someone from expressing views that others find distasteful or offensive, or to prevent others from hearing or seeing what some view as objectionable. Such campaigns have targeted works by artists,

concerts by rap artists, rock album lyrics, views on evolution and books of all sorts. In fact, some amazing works of literature have been banned at one time or another because people felt that the messages that they contained were not “fit” or “proper” for others to see.

For a list of banned books visit the Banned Books web site at: <http://digital.library.upenn.edu/books/banned-books.html>.

In school, you have access to information from several different sources. These include among others:

1. the official course curriculum, including class text books
2. outside materials that your teachers bring in to the classroom
3. guests that your instructors invite to share their views or experiences
4. library resources and
5. information from the Internet (accessed through the school’s computers).

The school can set reasonable limits on some of these forms of access. For example, for obvious reasons your school most likely has a policy prohibiting you from downloading violent, racist, or sexual images on a school computer. School boards also have a say about what types of books are taught as part of the official school curriculum. An important case from the Supreme Court of Canada, *Chamberlain v. Surrey School District No. 36*, involved a school board which refused to approve books that depicted parents of the same sex. The Supreme Court said that the school board acted unreasonably and that public schools have a legal duty to teach respect and tolerance for all types of families.

**facts:** A couple of students from a local school set up a voting booth on the Internet. All work was done from home. Among the questions students can vote on are: Who's the cutest couple? Who is the least popular person? Students can also send in comments. Among the comments posted are: "I think Todd K. sucks snot" and "Tina Y is super ugly". Mr. Peters, the track coach, also tops the list of "the world's worst dictators". The school finds out about the booth and decides to shut it down. Because they can't find the students that posted the comments, they suspend those who admit to creating the booth. Consider the following questions:

\* **case study**  
free vote

1. What civil liberties issues are raised here?
2. Can (or should) the school punish students for activities they do outside of school? If so, where would you draw the line? Think about the *in loco parentis* concept.
3. Even though the students who opened the booth did not write the comments, can (or should) they be punished anyway?
4. If the comments were racist, homophobic, or sexist, would you feel differently? Why or why not?