

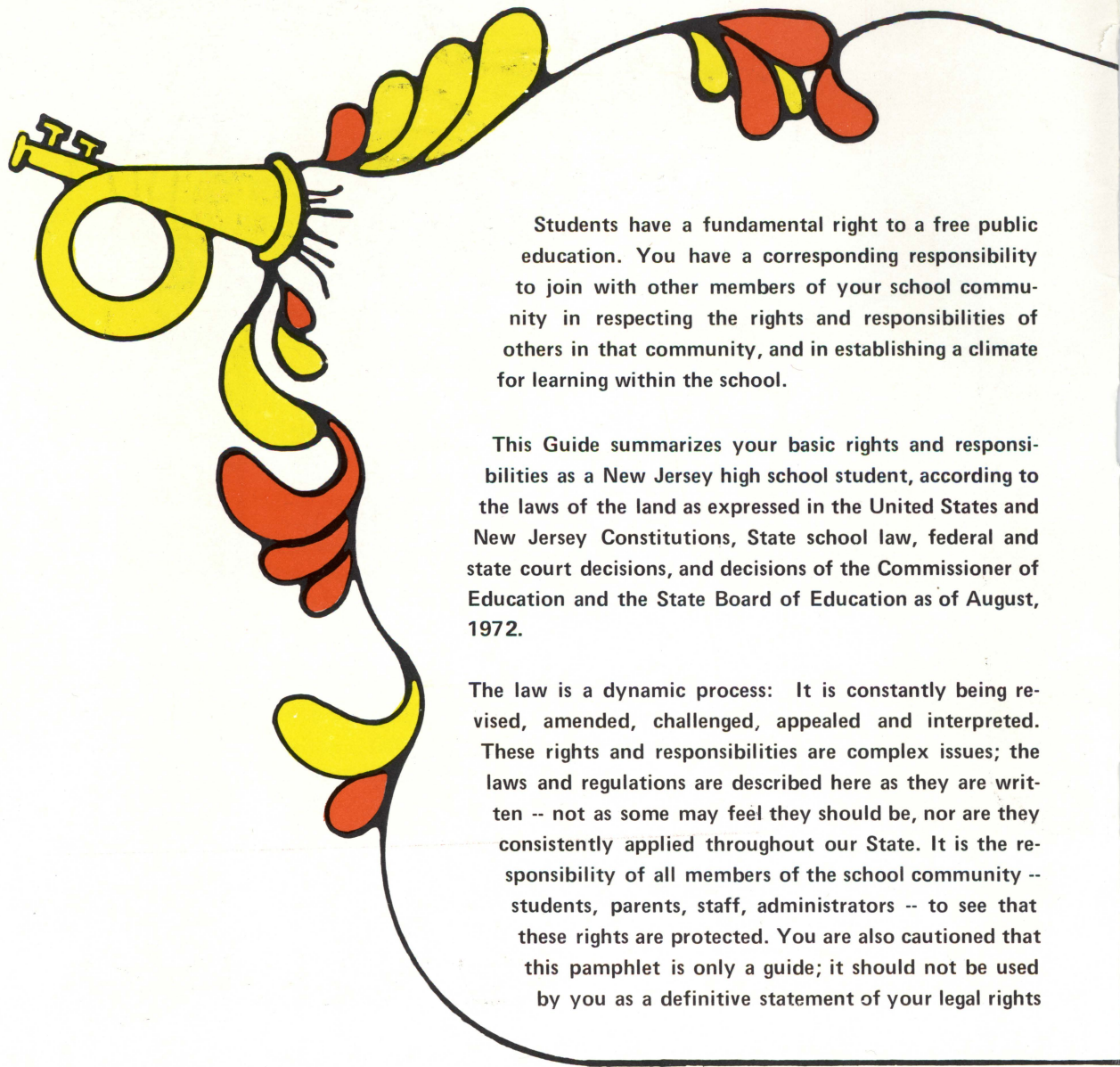
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student rights & responsibilities in new jersey

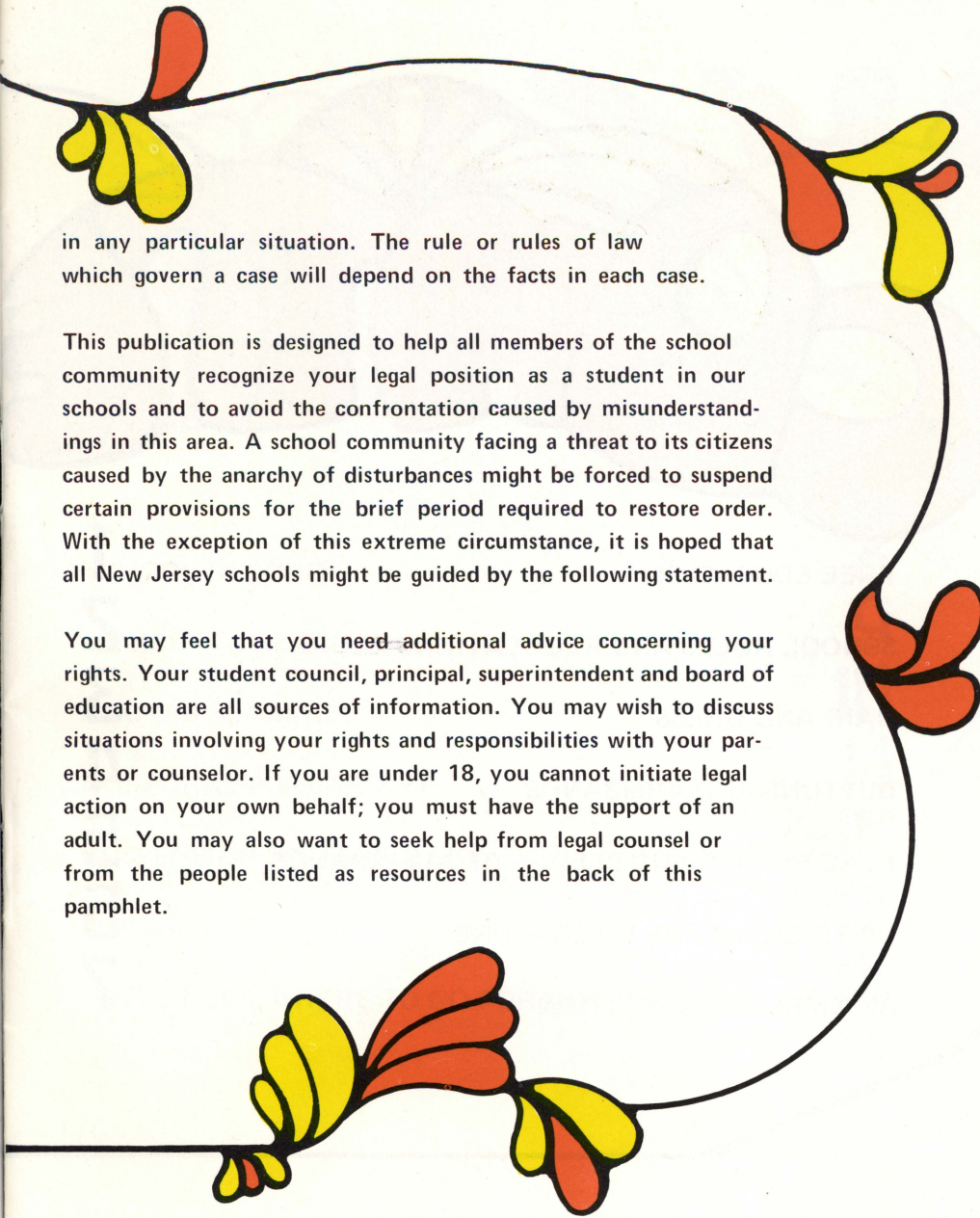


Students have a fundamental right to a free public education. You have a corresponding responsibility to join with other members of your school community in respecting the rights and responsibilities of others in that community, and in establishing a climate for learning within the school.

This Guide summarizes your basic rights and responsibilities as a New Jersey high school student, according to the laws of the land as expressed in the United States and New Jersey Constitutions, State school law, federal and state court decisions, and decisions of the Commissioner of Education and the State Board of Education as of August, 1972.

The law is a dynamic process: It is constantly being revised, amended, challenged, appealed and interpreted. These rights and responsibilities are complex issues; the laws and regulations are described here as they are written -- not as some may feel they should be, nor are they consistently applied throughout our State. It is the responsibility of all members of the school community -- students, parents, staff, administrators -- to see that these rights are protected. You are also cautioned that this pamphlet is only a guide; it should not be used by you as a definitive statement of your legal rights

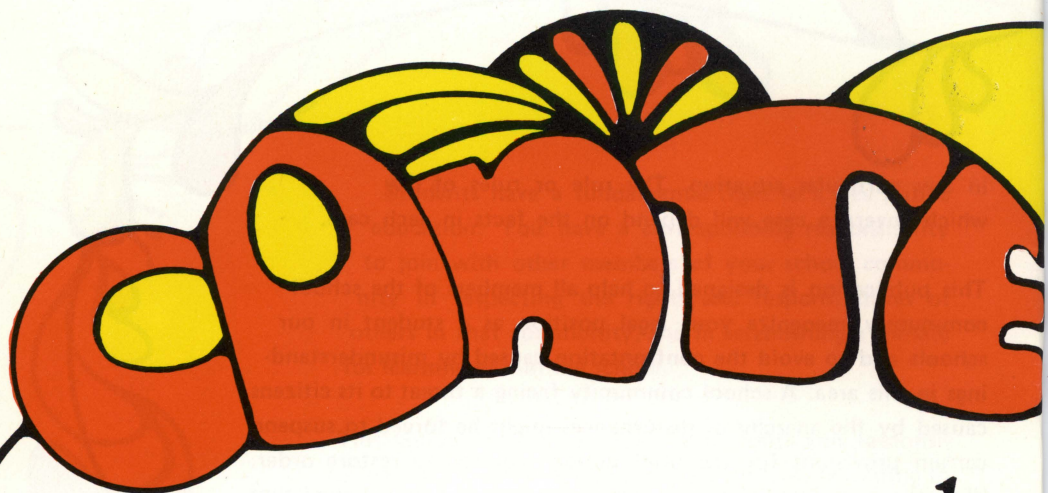




in any particular situation. The rule or rules of law which govern a case will depend on the facts in each case.

This publication is designed to help all members of the school community recognize your legal position as a student in our schools and to avoid the confrontation caused by misunderstandings in this area. A school community facing a threat to its citizens caused by the anarchy of disturbances might be forced to suspend certain provisions for the brief period required to restore order. With the exception of this extreme circumstance, it is hoped that all New Jersey schools might be guided by the following statement.

You may feel that you need additional advice concerning your rights. Your student council, principal, superintendent and board of education are all sources of information. You may wish to discuss situations involving your rights and responsibilities with your parents or counselor. If you are under 18, you cannot initiate legal action on your own behalf; you must have the support of an adult. You may also want to seek help from legal counsel or from the people listed as resources in the back of this pamphlet.



FREE EDUCATION

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HAIR AND DRESS

BUTTONS AND ARMBANDS

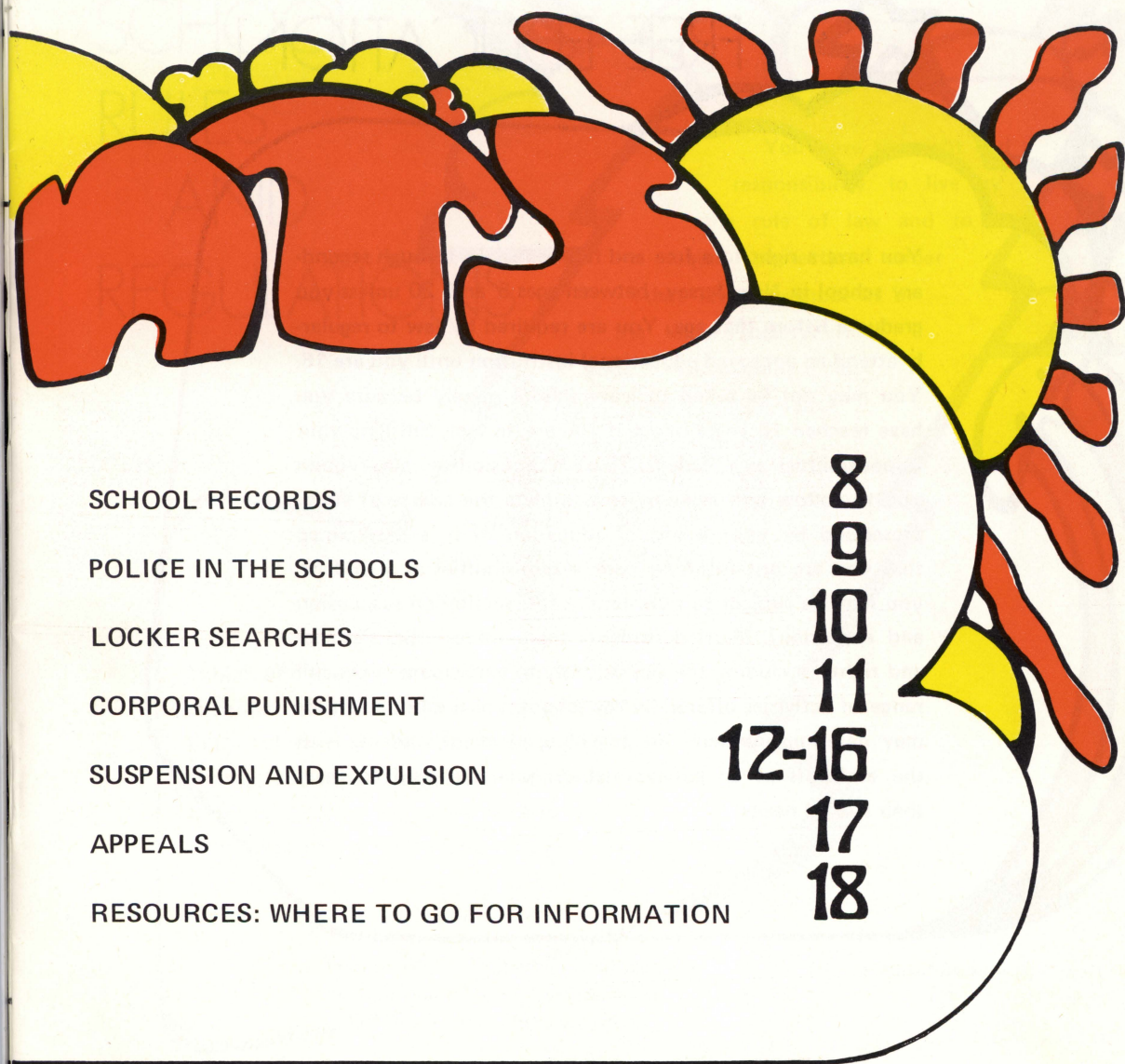
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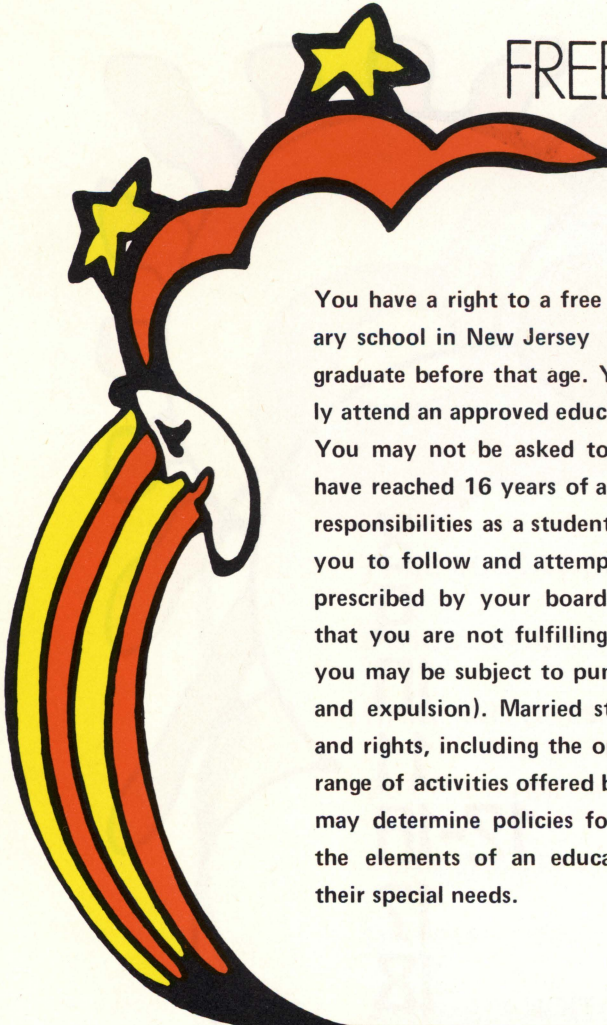
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# FREE EDUCATION

You have a right to a free and full education through secondary school in New Jersey between ages 5 and 20 unless you graduate before that age. You are required by law to regularly attend an approved educational institution until you are 16. You may not be asked to leave school merely because you have reached 16 years of age if you are, in fact, fulfilling your responsibilities as a student. Those responsibilities also require you to follow and attempt to complete the course of study prescribed by your board of education. If it is determined that you are not fulfilling your responsibilities as a student, you may be subject to punishment (see section on suspension and expulsion). Married students share these responsibilities and rights, including the opportunity to participate in the full range of activities offered by the school. Local school districts may determine policies for providing pregnant students with the elements of an educational program designed to meet their special needs.

-- New Jersey Constitution (1947), Article VIII, SIV, par. 1

-- N.J.S.A. 18A:37-1,2

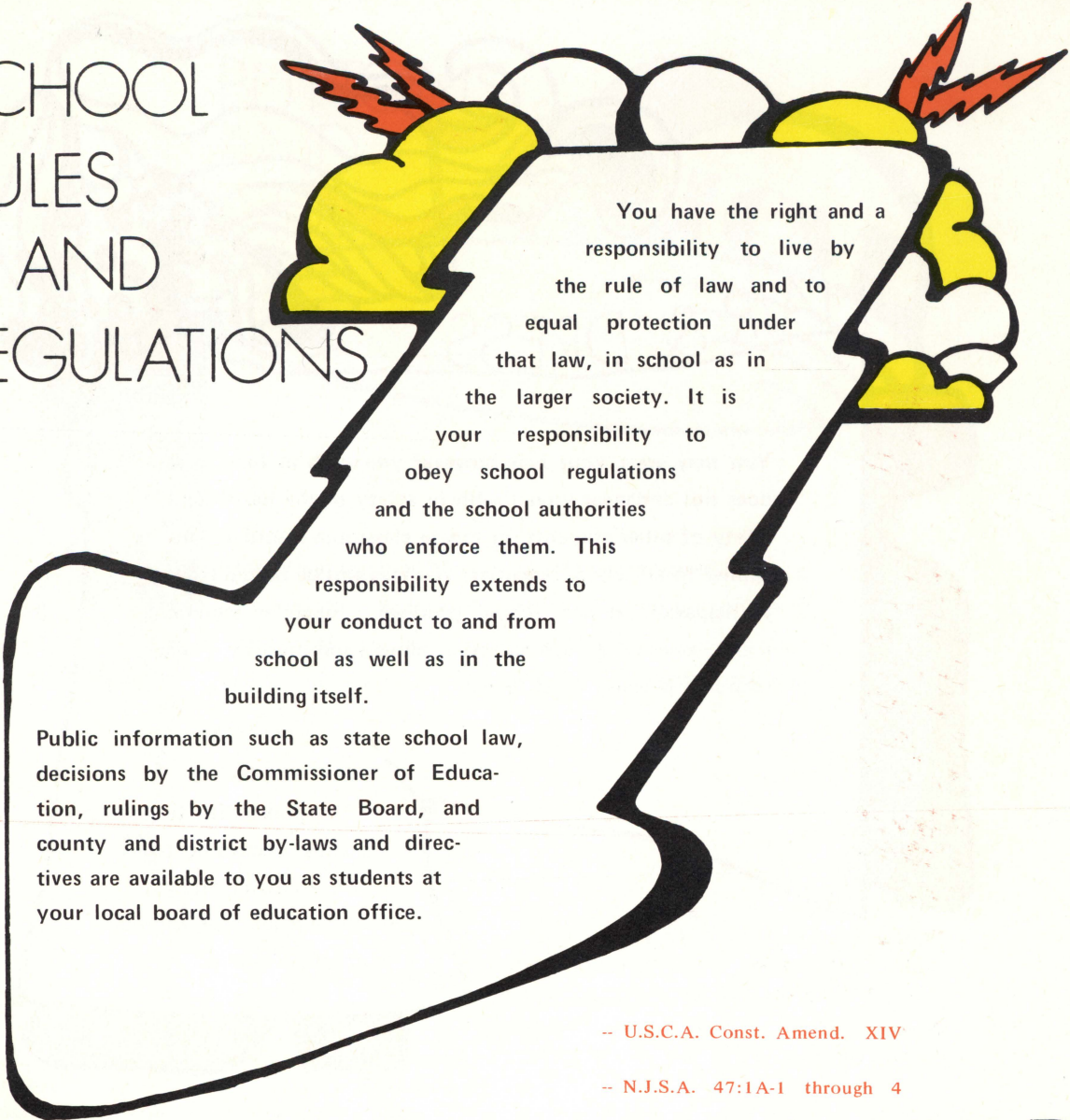
-- N.J.S.A. 18A:38-1, 5.1

-- N.J.S.A. 18A:38-25 through 29

-- Johnson v. Bd. of Ed. of the Borough of Paulsboro, USDCA, Docket No. 172-70 (decided April 16, 1970).



# SCHOOL RULES AND REGULATIONS




You have the right and a responsibility to live by the rule of law and to equal protection under that law, in school as in the larger society. It is your responsibility to obey school regulations and the school authorities who enforce them. This responsibility extends to your conduct to and from school as well as in the building itself.

Public information such as state school law, decisions by the Commissioner of Education, rulings by the State Board, and county and district by-laws and directives are available to you as students at your local board of education office.

-- U.S.C.A. Const. Amend. XIV

-- N.J.S.A. 47:1A-1 through 4



## HAIR & DRESS

You may wear your hair however you wish as long as it does not endanger your health or safety or the health and safety of other students, or create classroom disorder. This applies to all school activities; you may not be barred from participation in any school program -- such as athletic teams, musical groups or other clubs sponsored by your school -- because of your hair.

\*\*\*\*\*

You have a responsibility to dress according to the approved and reasonable regulations of your board of education.

-- Francis Joseph Pelletreau v. Bd. of Ed. of the Borough of New Milford, Bergen Cnty., 1967 S.L.D. 35, reversed by the State Board, 48.

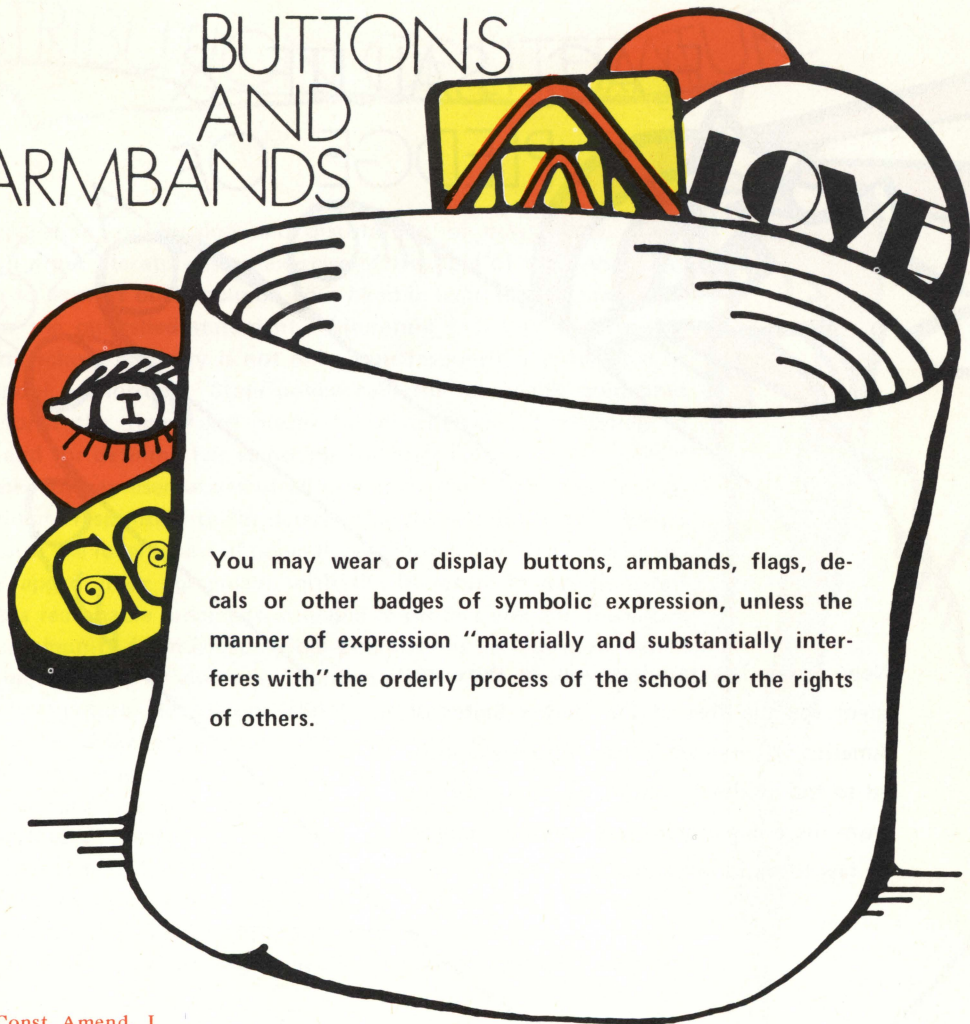
-- David Harris v. Bd. of Ed. of the Twp. of Teaneck, Bergen Cnty. decided by the Comm., Sept. 30, 1970.

-- Randolph Bramwell v. Bd. of Ed. of the Twp. of Franklin, Somerset Cnty., decided by the Comm., November 10, 1970.

-- Ruth [Ann] Singer v. Bd. of Ed. of the Borough of Collingswood, Camden Cnty., decided by the Comm., Dec. 1, 1971.



# BUTTONS AND ARMBANDS

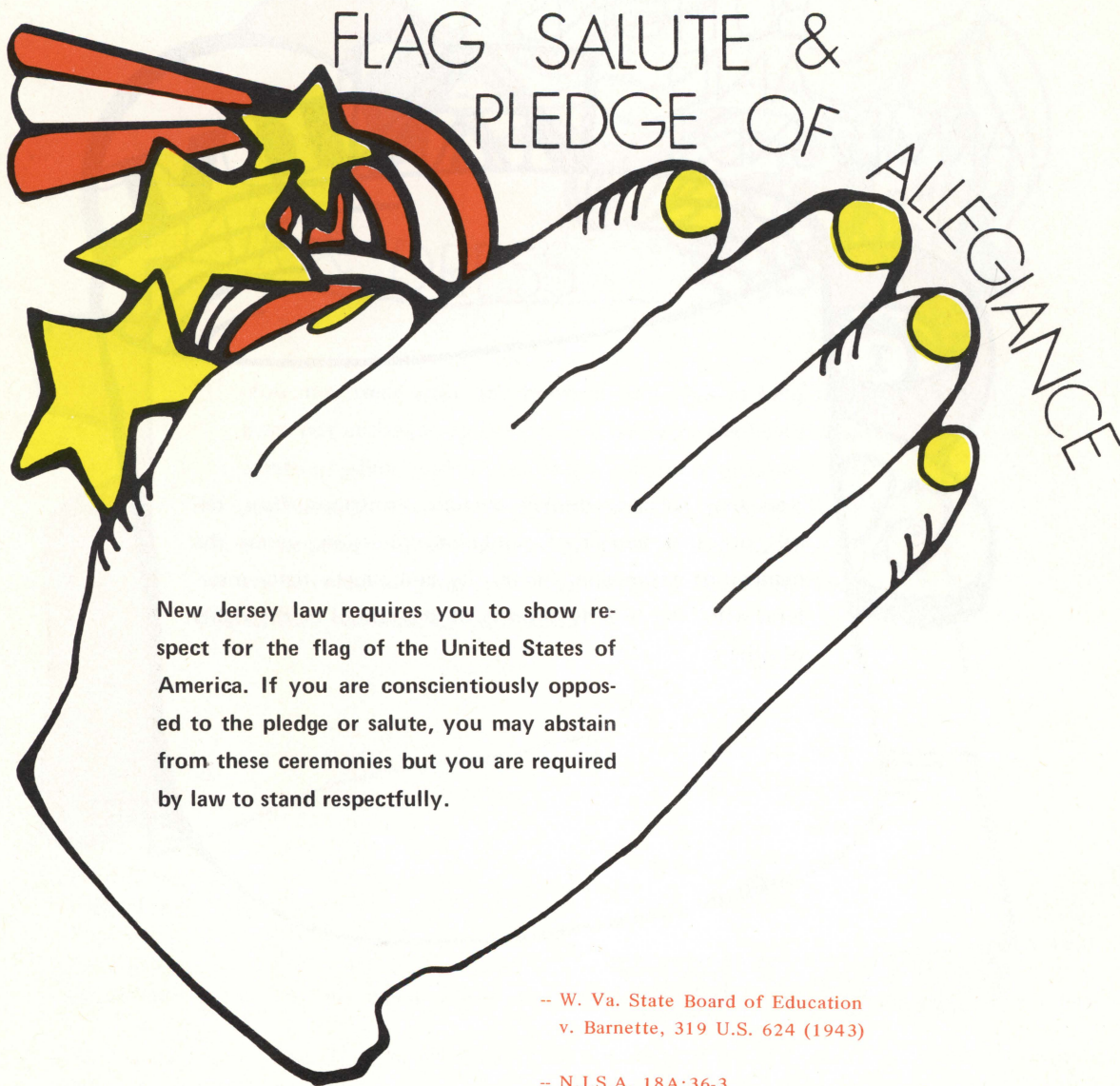


You may wear or display buttons, armbands, flags, decals or other badges of symbolic expression, unless the manner of expression "materially and substantially interferes with" the orderly process of the school or the rights of others.

-- U.S.C.A. Const. Amend. I

-- Tinker v. Des Moines Independent School District, 393 U.S. 503 (1969)

-- Charles Robbins et. al. v. Bd. of Ed. of the City of Burlington, Burlington Cnty., decided by the Commissioner, January 21, 1971.



New Jersey law requires you to show respect for the flag of the United States of America. If you are conscientiously opposed to the pledge or salute, you may abstain from these ceremonies but you are required by law to stand respectfully.

-- W. Va. State Board of Education  
v. Barnette, 319 U.S. 624 (1943)

-- N.J.S.A. 18A:36-3



# DISTRIBUTION OF LITERATURE

The preparation, publication and distribution of newspapers, magazines and other literature is an exercise of freedom of the press. The freedom to express one's opinion goes hand in hand with the responsibility for the published statement. Literature that you wish to distribute on school property is not only your responsibility, but that of your school authorities. State policy calls for reasonable guidelines setting forth the times and places for distribution of materials in school, and for defining fair standards for their content, to be jointly determined by representatives of all groups in the school community, with ultimate responsibility for determining the suitability of materials resting with the local board of education. "Suitability" may not be defined as approval or agreement with the literature in question, but refers to a reasonable judgment intended to protect you and the entire school community from irresponsible publications such as those aimed at creating hostility or violence, "hard-core" pornography or material of a libelous nature. Once your school has established such guidelines, you may distribute publications that meet the conditions of those guidelines on school property. You may also distribute publications next to school property subject to the same rules governing other citizens' right to distribute literature on public property (you may not block pedestrian traffic or entrances to buildings). New Jersey school law is quite specific on one other point: distribution of partisan political literature supporting or opposing candidates or public questions in any general, municipal or school election is prohibited on school property.

William T. Burke et. al. v. Bd. of Ed. of the Twp. of Livingston, Essex Cnty. and Julius C. Bernstein, decided by the Commissioner, November 4, 1970.

N.J.S.A. 18A:42-4.

U.S.C.A. Const. Amend. I

Jeffrey Goodman, et. al. v. Bd. of Ed. of South Orange-Maplewood, Essex Cnty., decided by the Comm. June 18, 1969; decision on remand, March 12, 1971.

# ASSEMBLY AND PETITION

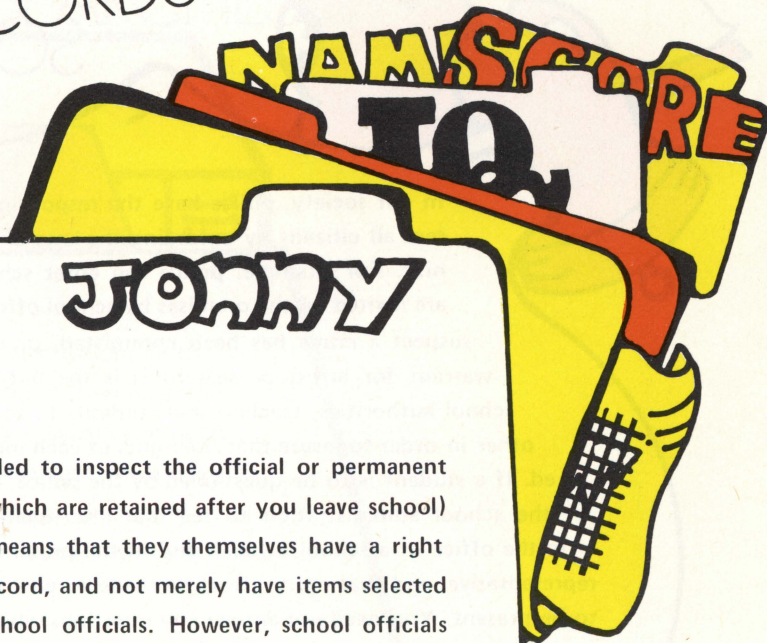


Your right to assemble and to circulate petitions carries with it the equal responsibility to respect the orderly operation of the school. School authorities have a right to restrict the times and places of such activities, and may require advance notice when necessary to avoid conflicts and to insure proper protection of the school community.

-- U.S.C.A. Const. Amend. I



# SCHOOL RECORDS



Your parents are entitled to inspect the official or permanent school records (those which are retained after you leave school) relating to you. This means that they themselves have a right to inspect the actual record, and not merely have items selected from the record by school officials. However, school officials may withhold items of information which, in their judgment, are of a confidential nature or in which the applicant for such information has no legitimate interest. School authorities may determine the time and manner of presentation of this information; for example, they may suggest that a counselor, qualified to interpret data in the records, be present.

# POLICE IN THE SCHOOLS

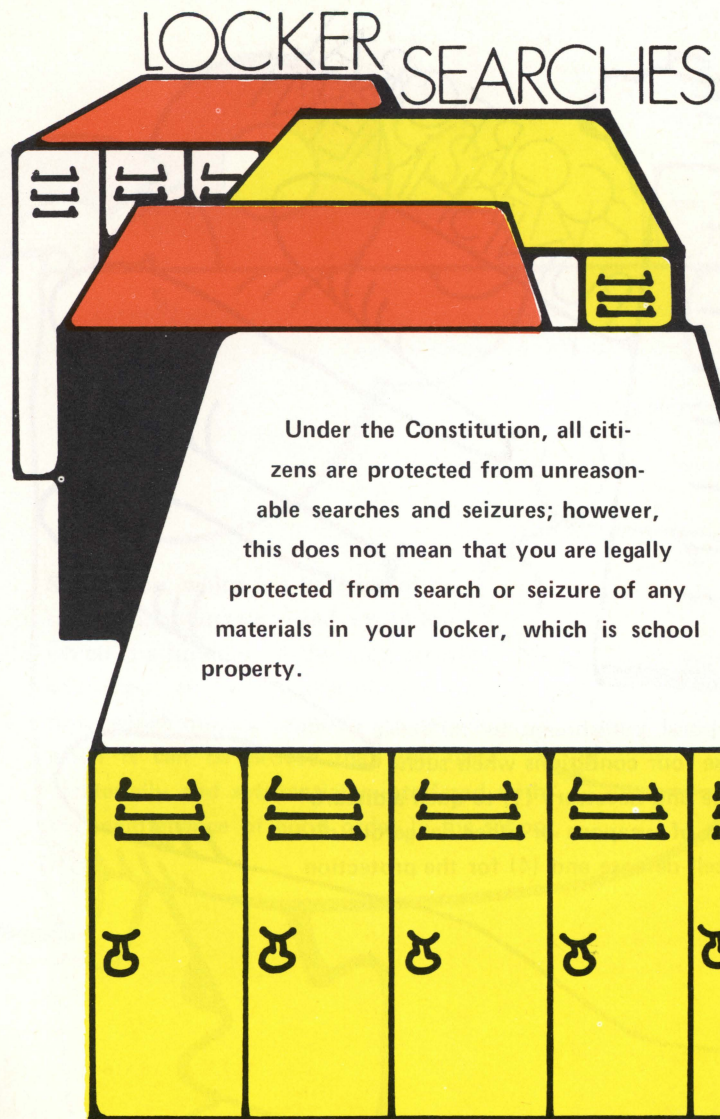


In our society, police have the responsibility to protect all citizens by enforcing the laws of the community. For example, police can enter schools if they are invited on the premises by school officials, if they suspect a crime has been committed, or if they have a warrant for arrest or search. It is the duty of the police, school authorities, teachers and students to cooperate with each other in order to insure that the rights of each individual are respected. If a student is to be questioned by the police, it is the responsibility of the school administration to see that interrogations take place privately in the office of a school official, and in the presence of the principal or his representative, and that every effort be made to give a parent the opportunity to be present. You need not answer any questions which require you to provide any more than your name, age, address and your business at the school until your parent and/or a lawyer are present. You have the same rights in relation to the police in school as you have out of school: you have a right to be informed of your legal rights, to be protected (by school officials, if necessary) from coercion and illegal constraint, and to remain silent.

-- U.S.C.A. Const. Amend. V

-- Miranda v. Arizona, 86 S.Ct.  
1602 (1966)





Under the Constitution, all citizens are protected from unreasonable searches and seizures; however, this does not mean that you are legally protected from search or seizure of any materials in your locker, which is school property.

--U.S.C.A. Const. Amend. IV

--Overton v. New York, 24 N.Y. 2d 522, 249 N.E. 2d 366, 301 N.Y.S. 2d 479 (1969) adhered to, --F. Supp. -69Civ. 40006 (S.D.N.Y. April 7, 1970) (Appeal Pending): Memorandum of Law in Support of Petition for Habeas corpus.

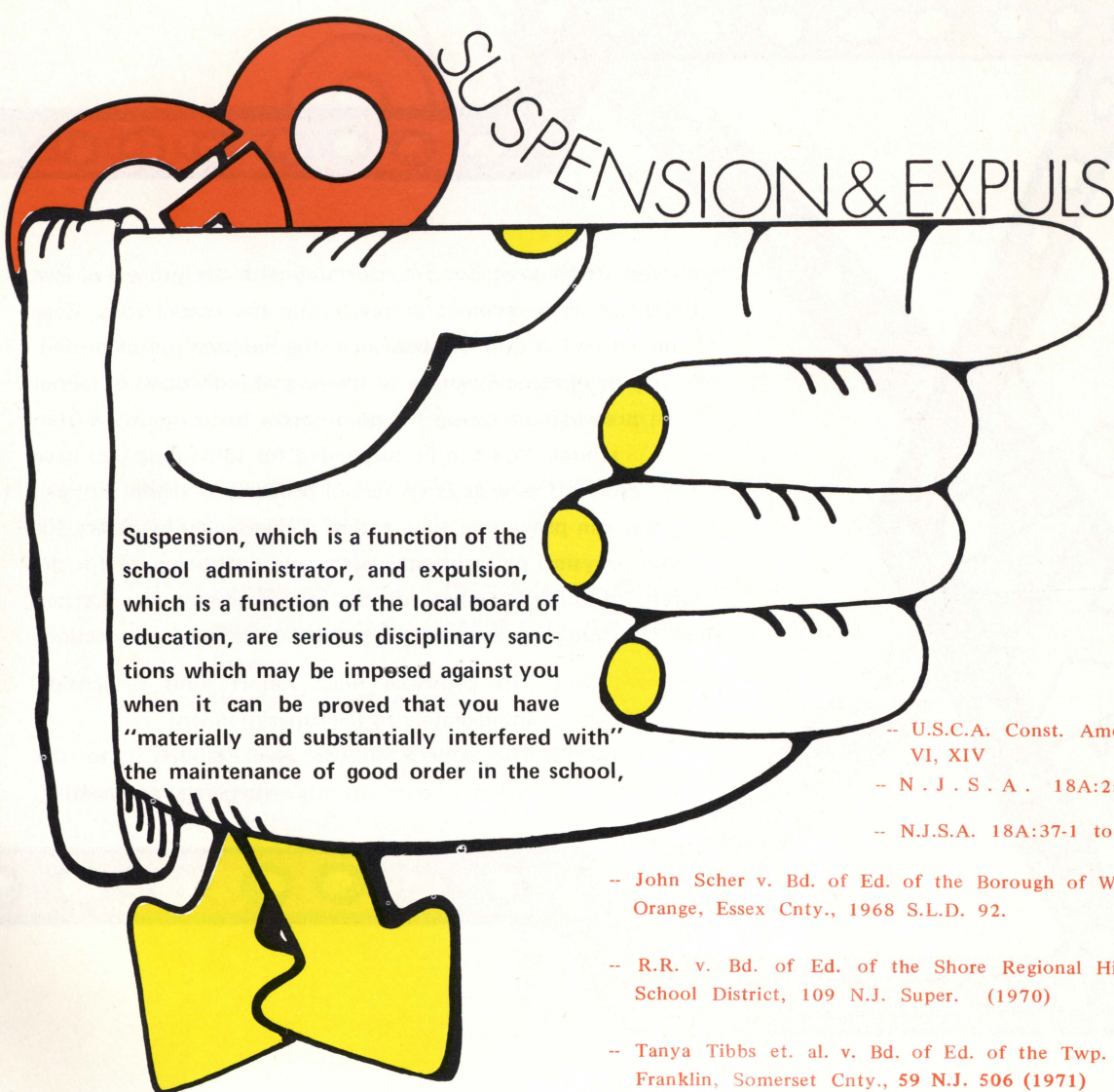


You are protected from corporal punishment by school employees, except under these four conditions when such force is considered "reasonable and necessary (1) to quell a disturbance, (2) to obtain possession of weapons or other dangerous objects, (3) for the purpose of self-defense and (4) for the protection of persons and property."

-- N.J.S.A. 18A:6-1

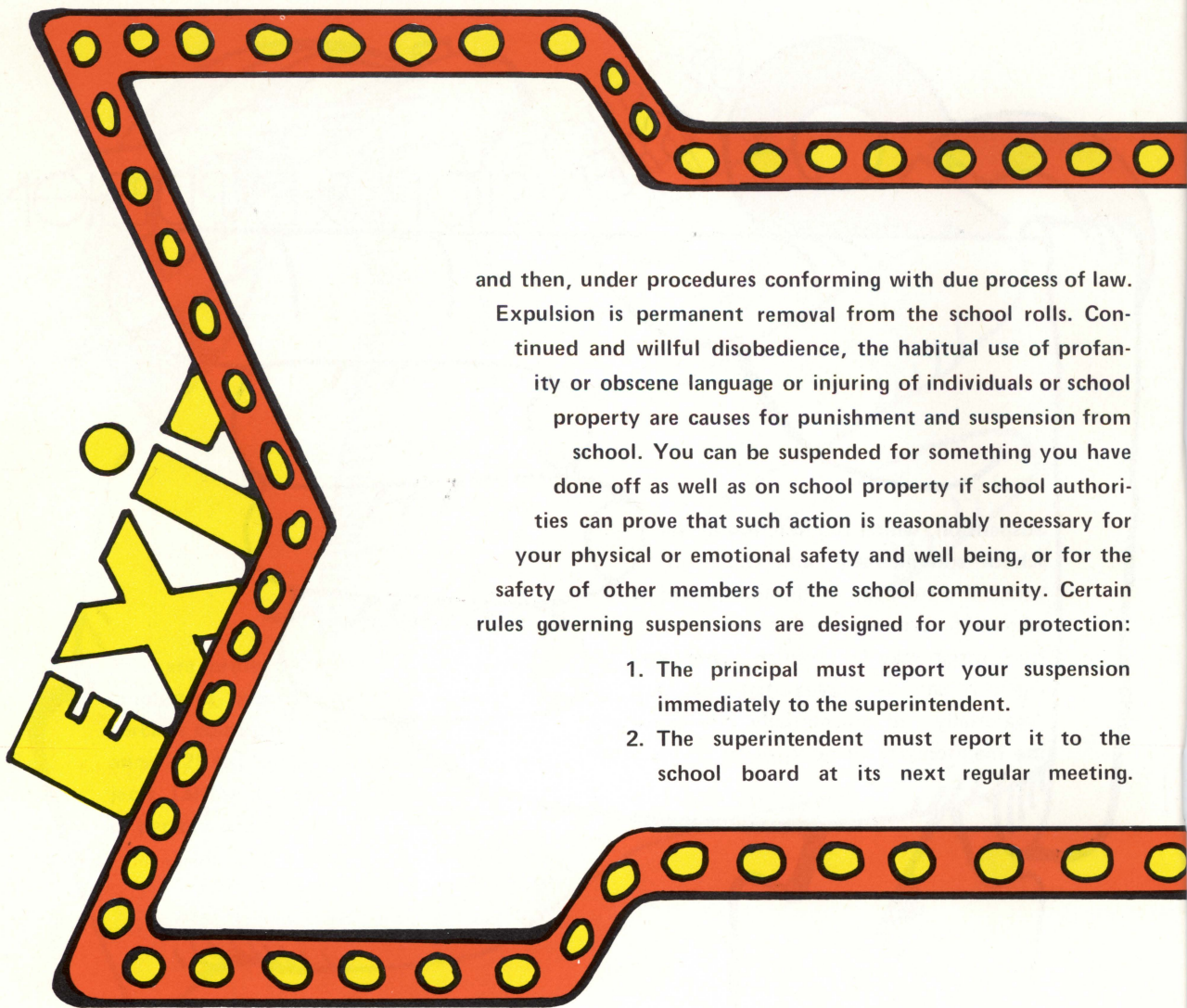


# SUSPENSION & EXPULSION



Suspension, which is a function of the school administrator, and expulsion, which is a function of the local board of education, are serious disciplinary sanctions which may be imposed against you when it can be proved that you have "materially and substantially interfered with" the maintenance of good order in the school,


- U.S.C.A. Const. Amend. VI, XIV
- N.J.S.A. 18A:25-2
- N.J.S.A. 18A:37-1 to 5
- John Scher v. Bd. of Ed. of the Borough of West Orange, Essex Cnty., 1968 S.L.D. 92.
- R.R. v. Bd. of Ed. of the Shore Regional High School District, 109 N.J. Super. (1970)
- Tanya Tibbs et. al. v. Bd. of Ed. of the Twp. of Franklin, Somerset Cnty., 59 N.J. 506 (1971)



and then, under procedures conforming with due process of law. Expulsion is permanent removal from the school rolls. Continued and willful disobedience, the habitual use of profanity or obscene language or injuring of individuals or school property are causes for punishment and suspension from school. You can be suspended for something you have done off as well as on school property if school authorities can prove that such action is reasonably necessary for your physical or emotional safety and well being, or for the safety of other members of the school community. Certain rules governing suspensions are designed for your protection:

1. The principal must report your suspension immediately to the superintendent.
2. The superintendent must report it to the school board at its next regular meeting.



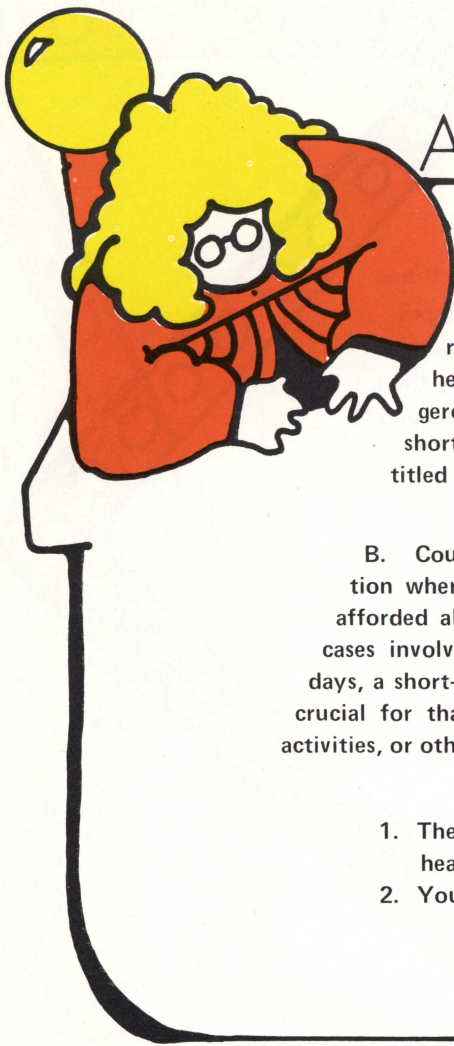
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3. Either the board or the superintendent may reinstate you before the board's second regular meeting after your suspension.
  4. After that board of education meeting, only the board may continue your suspension or expel you.

In case of either suspension or expulsion you have the right to the following elements of due process:

1. A written statement of the charges against you and the grounds justifying the sanction to be imposed.
2. A hearing.
3. A means of effective appeal.

The following are your rights regarding hearings:  
(continued next page)

(See pg. 12 for footnotes)



## A. INFORMAL HEARING

A. Under ordinary circumstances you are entitled to the opportunity to demonstrate to the authorities that there is a case of mistaken identity or some compelling reason why you should not be suspended pending a full hearing; where school officials believe that you may be dangerous to yourself or others, you may be suspended for a short period. If the suspension is to be extended, you are entitled to a full hearing.

B. Court and school law decisions have held that in any situation where a fundamental right may be denied, students must be afforded all appropriate elements of due process. This may apply in cases involving expulsion, a long-term suspension which exceeds 21 days, a short-term suspension in which the timing of the punishment is crucial for that particular student, prohibition against certain student activities, or other instances of a serious nature.

1. The hearing must be held within 21 days after the informal hearing.
2. You may be represented by a lawyer.



## B. FULL HEARING

3. The hearing may be held by the board of education or by a hearing examiner appointed by them.
4. You are entitled to a translator where necessary.
5. You are entitled to the rudiments of an adversary proceeding. Courts have held that these rudiments may include the right to be presented with the names of witnesses against you and copies of the statements and affidavits of those witnesses, the right to demand that any such witness appear in person to answer questions, and the right to testify and produce witnesses on your own behalf. The precise nature of the hearing depends upon the circumstances of the particular case, such as the sanctions to be imposed or at what level the hearing is held.
6. A record must be kept of the hearing procedures. You are entitled, at your own expense, to a copy of that transcript.
7. The proceeding must be held with all reasonable speed.

If you are found innocent, you may request that any written entry referring to the incident be expunged from your school records.



# HELP!

## APPEALS

You may appeal a decision made by your school officials to the superintendent and the local board of education. If this is unsuccessful, you have two more appeals within the school system -- first, to the Commissioner of Education, and then (within 30 days after the Commissioner has made his decision) to the State Board of Education. You may appeal your case in court without going through the administrative procedures outlined above, but the court may require you to first exhaust those channels within the local and state school systems. Your local board of education also has this right of appeal.



# RESOURCES: Where To Go For Information

## YOUR LOCAL PRINCIPAL OR SUPERINTENDENT

### STATE SCHOOL OFFICIALS

New Jersey Department of Education  
225 West State Street  
Trenton, New Jersey 08625

Commissioner of Education  
609 292-4450

Assistant Commissioner  
Division of Controversies and Disputes  
609 292-5705

### STATE STUDENT COUNCIL OFFICE

New Jersey Association of High School Councils  
201 899-8770  
201 892-4351

The following are additional resources for legal aid or advice. The addresses and telephone numbers of only their central state offices have been listed; ask for the location of the office nearest you:

LEGAL SERVICES offices provide legal assistance to those persons, charged with civil offenses, who cannot afford to retain their own attorney.

State Office of Legal Services  
363 West State Street  
Trenton, New Jersey 08625  
609 292-6262

OFFICES OF THE PUBLIC DEFENDER provide legal assistance to those persons, charged with criminal offenses, who cannot afford to retain their own attorney.

Headquarters  
10-12 North Stockton Street  
Trenton, New Jersey 08625  
609 292-7087

Juvenile Administration  
1100 Raymond Boulevard  
Newark, New Jersey 07102  
201 648-2621

# CREDITS

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