



# Legal Frameworks

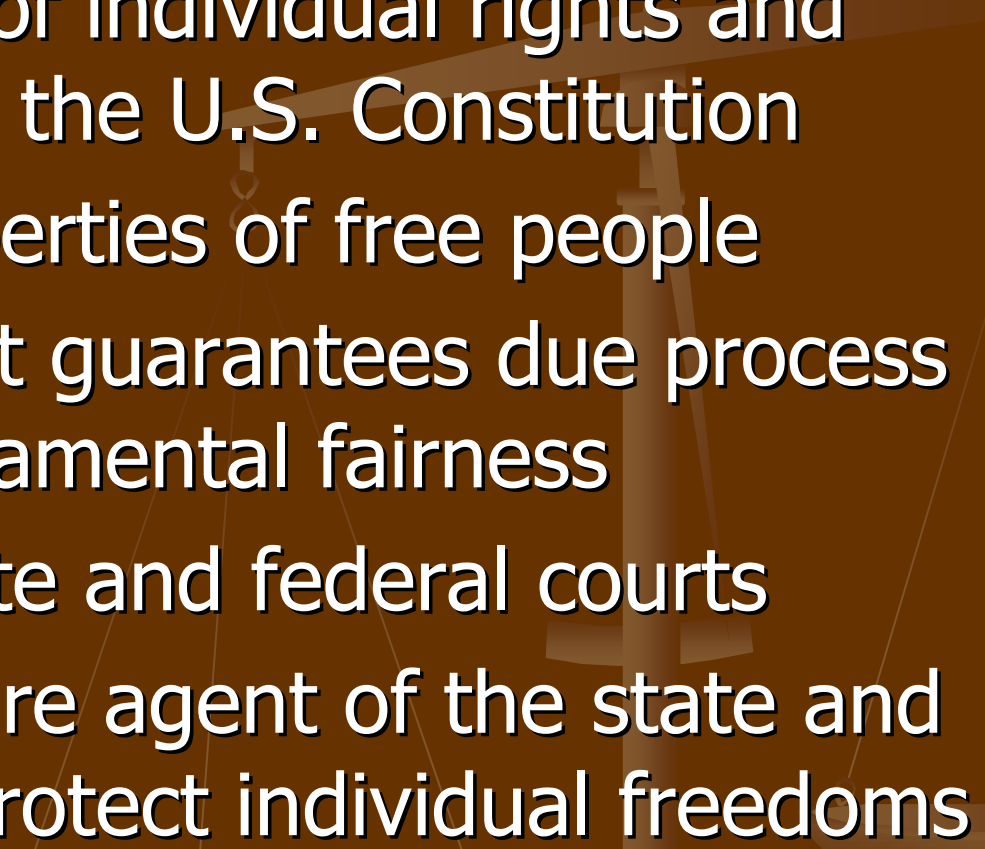
The Affect on Public Schools

# Sources of Law

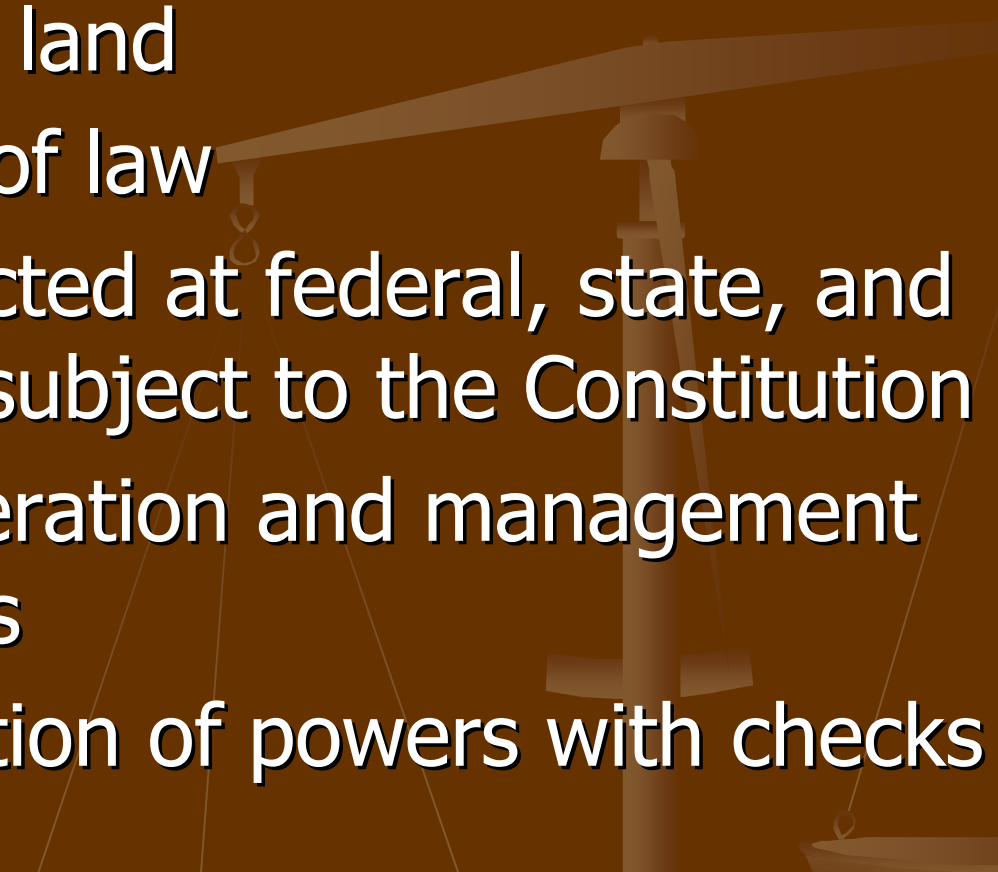
- Bill of Rights and the 14<sup>th</sup> Amendment
- Federal Constitution
- State Constitutions
- Statutes
- Court or Case Law
- School Board Policies



# Bill of Rights and the 14<sup>th</sup> Amendment

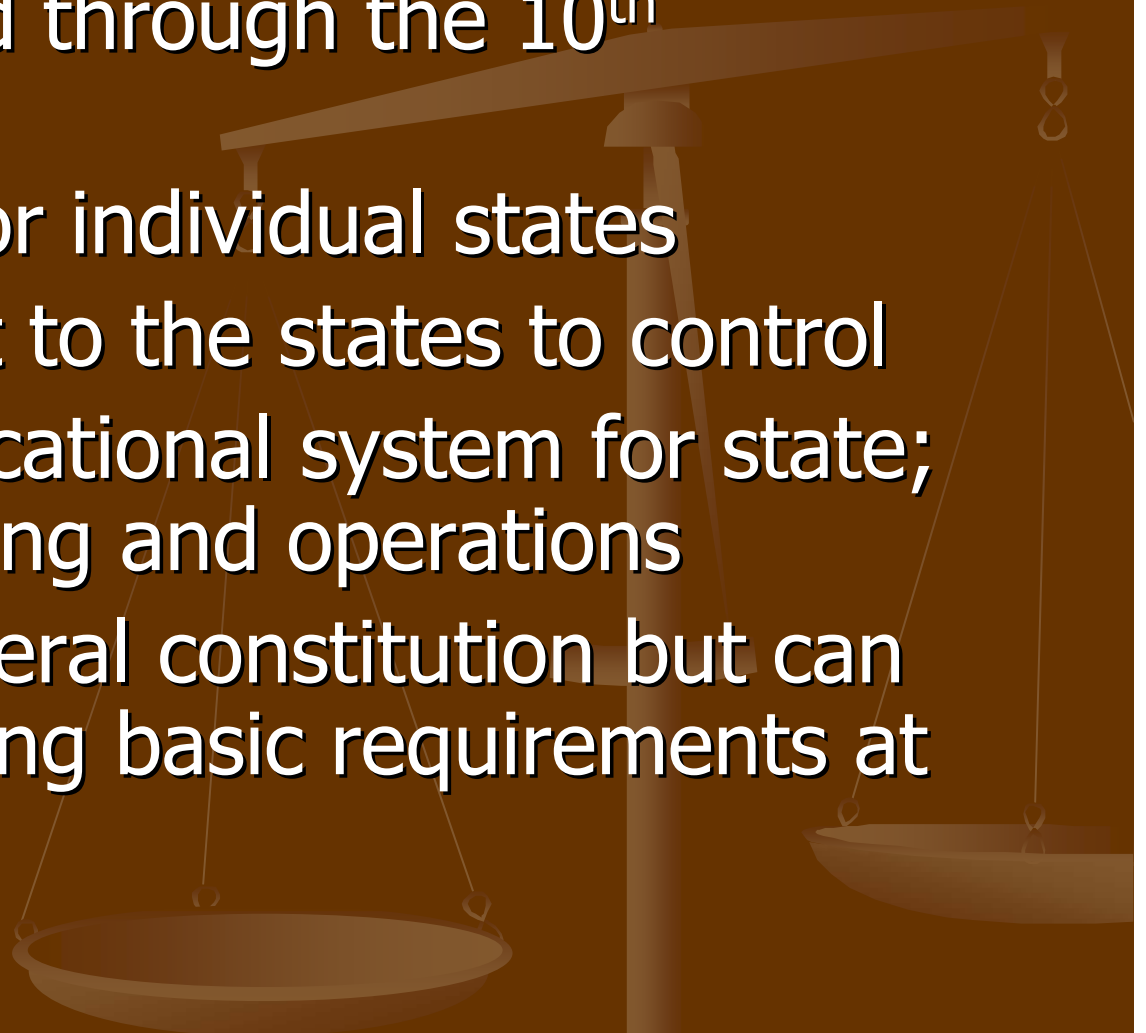
- Primary source of individual rights and freedoms under the U.S. Constitution
  - Fundamental liberties of free people
  - 14<sup>th</sup> Amendment guarantees due process of law and fundamental fairness
  - Enforced by state and federal courts
  - Public Schools are agent of the state and are subject to protect individual freedoms
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# Federal Constitution

- Basic law of the land
  - Primary source of law
  - All statutes enacted at federal, state, and local levels are subject to the Constitution
  - Impacts the operation and management of public schools
  - Calls for separation of powers with checks and balances
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# State Constitutions

- Powers deferred through the 10<sup>th</sup> Amendment
- Source of law for individual states
- Education is left to the states to control
- Establishes educational system for state; prescribes funding and operations
- May exceed federal constitution but can not fail in meeting basic requirements at federal level



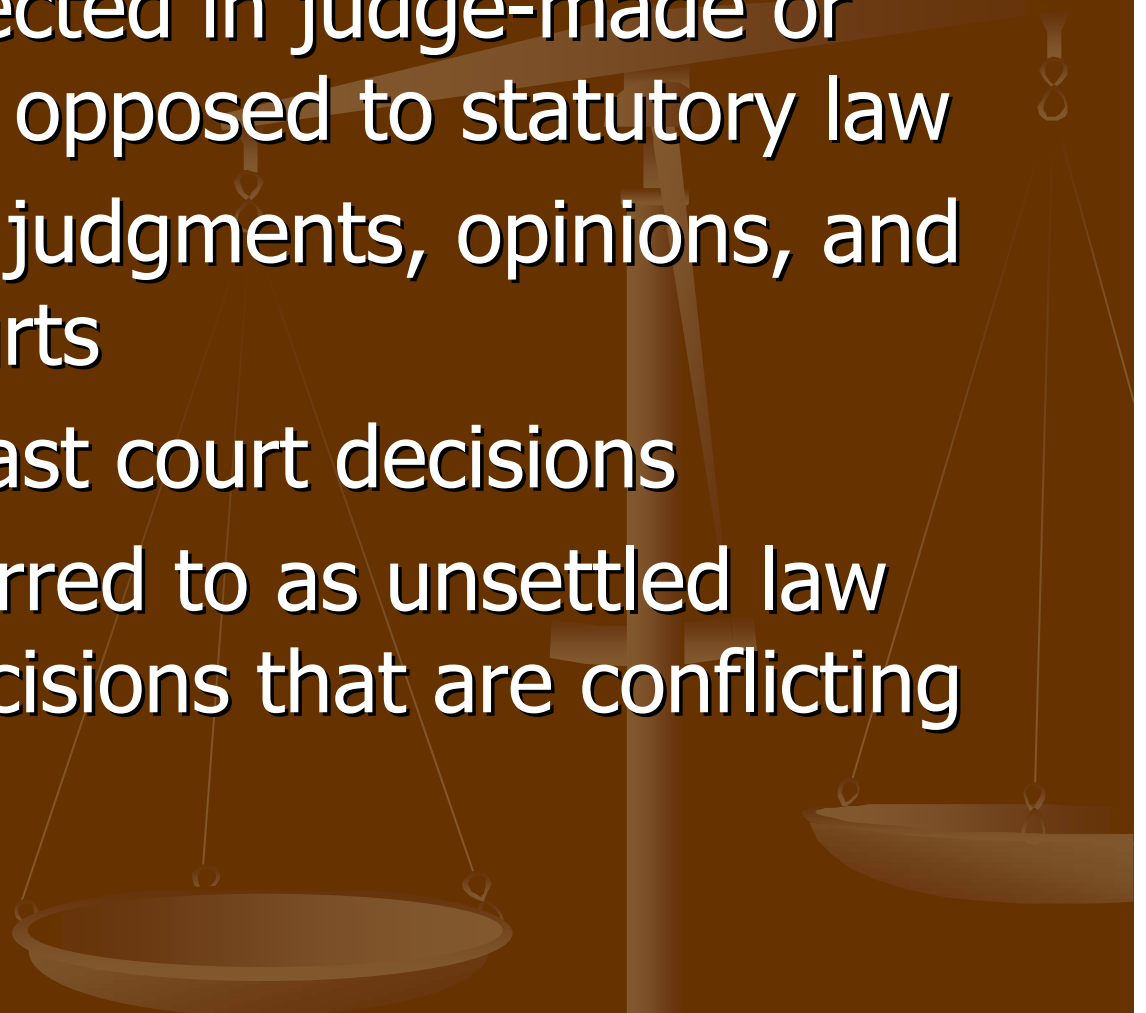
# Statutes



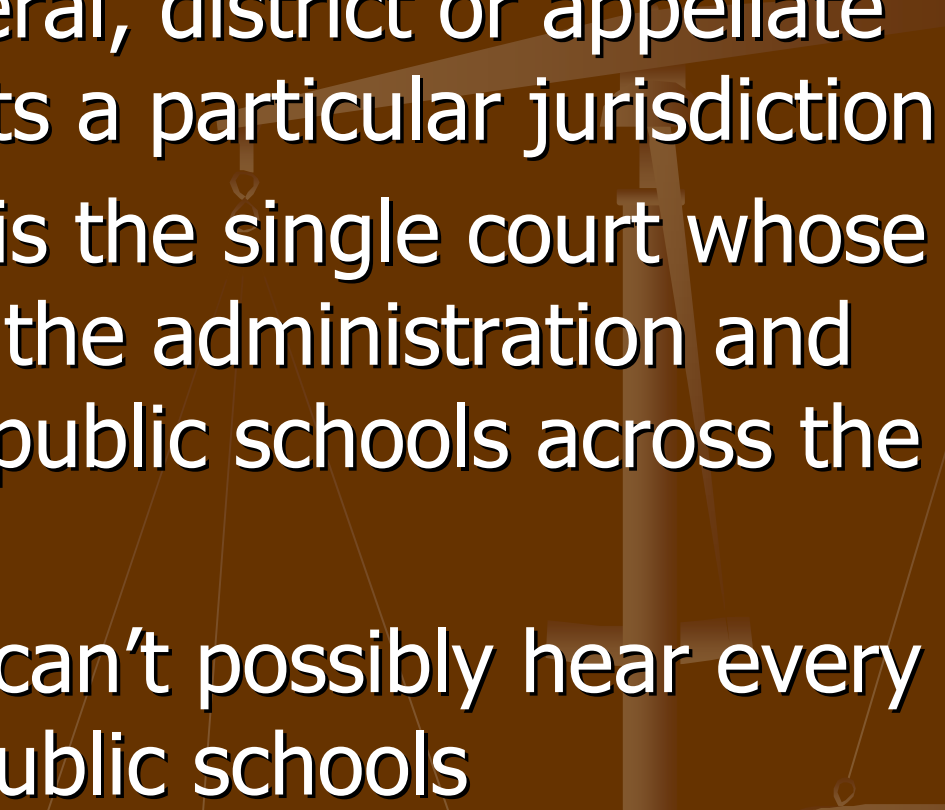
- Represent an act of the legislative branch
- Most abundant source of law affecting public schools
- Statutes are subject to review by the judicial branch of government to determine constitutionality
- Statutes are the most effective means of developing new laws

# Court or Case Law

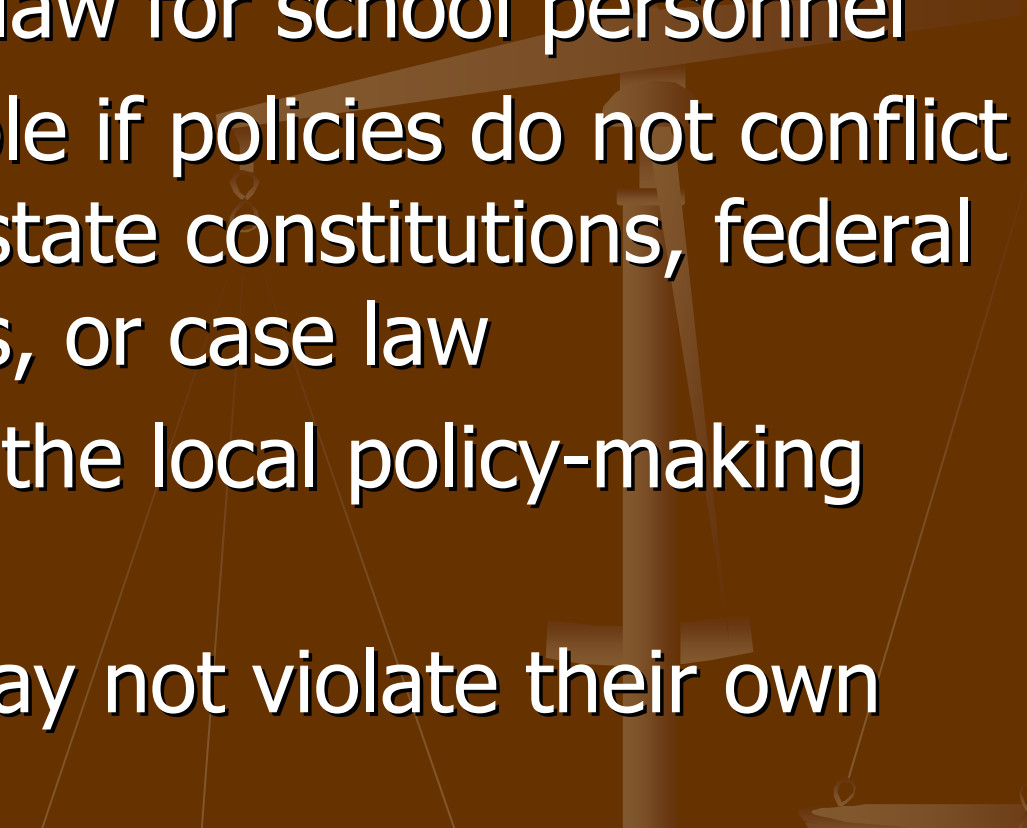
- Case law is reflected in judge-made or common law as opposed to statutory law
- Common law = judgments, opinions, and decisions of courts
- Precedents = past court decisions
- Case law is referred to as unsettled law due to court decisions that are conflicting in a jurisdiction



# Court or Case Law

- Ruling by a federal, district or appellate court only affects a particular jurisdiction
  - Supreme Court is the single court whose decisions affect the administration and organization of public schools across the nation
  - Supreme Court can't possibly hear every case affecting public schools
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# School Board Policies

- Basic source of law for school personnel
  - Legally defensible if policies do not conflict with federal or state constitutions, federal or state statutes, or case law
  - School Board is the local policy-making body
  - School Board may not violate their own policies
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# U.S. System of Courts

Supreme Court

Federal Circuit Court of Appeals

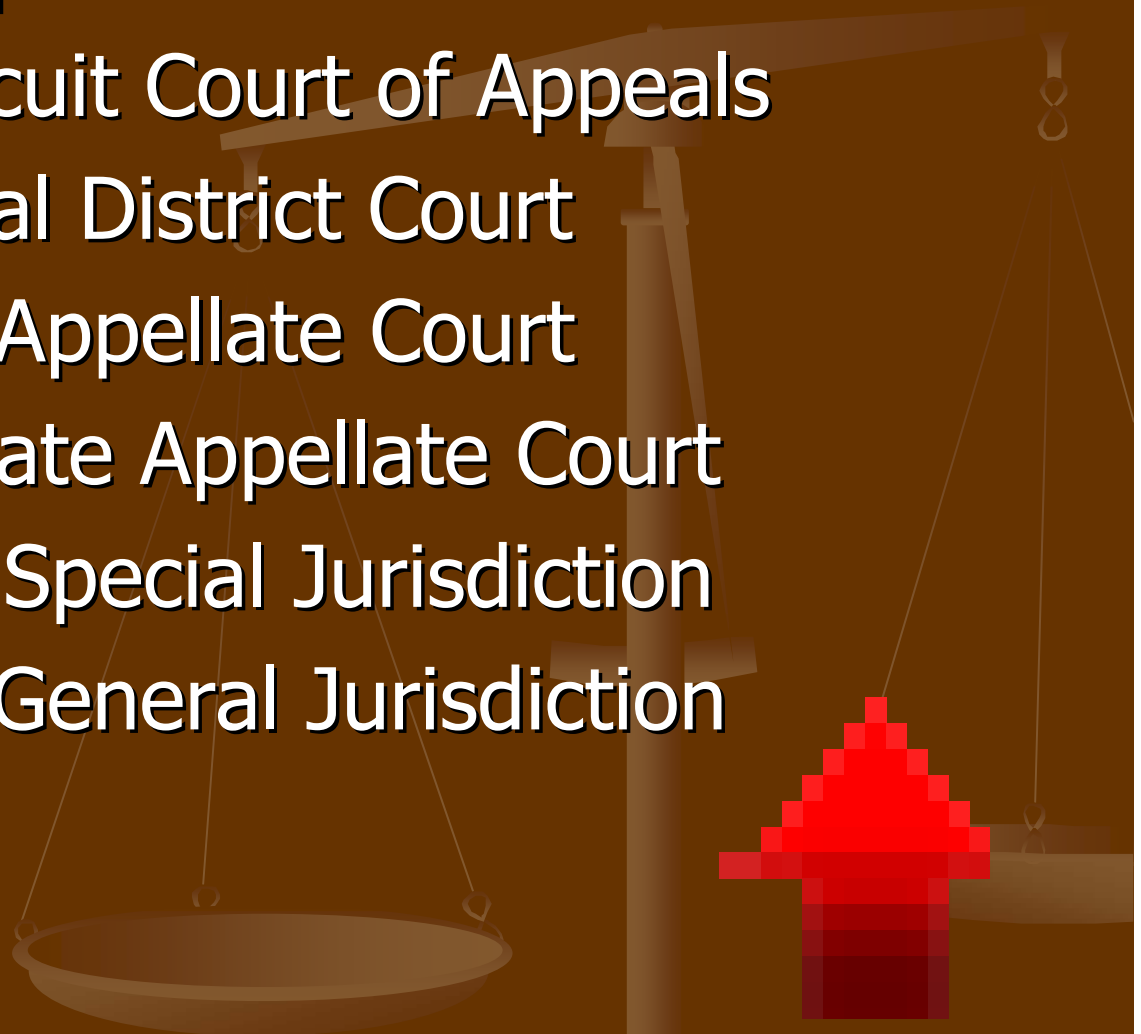
Federal District Court

State Appellate Court

Intermediate Appellate Court

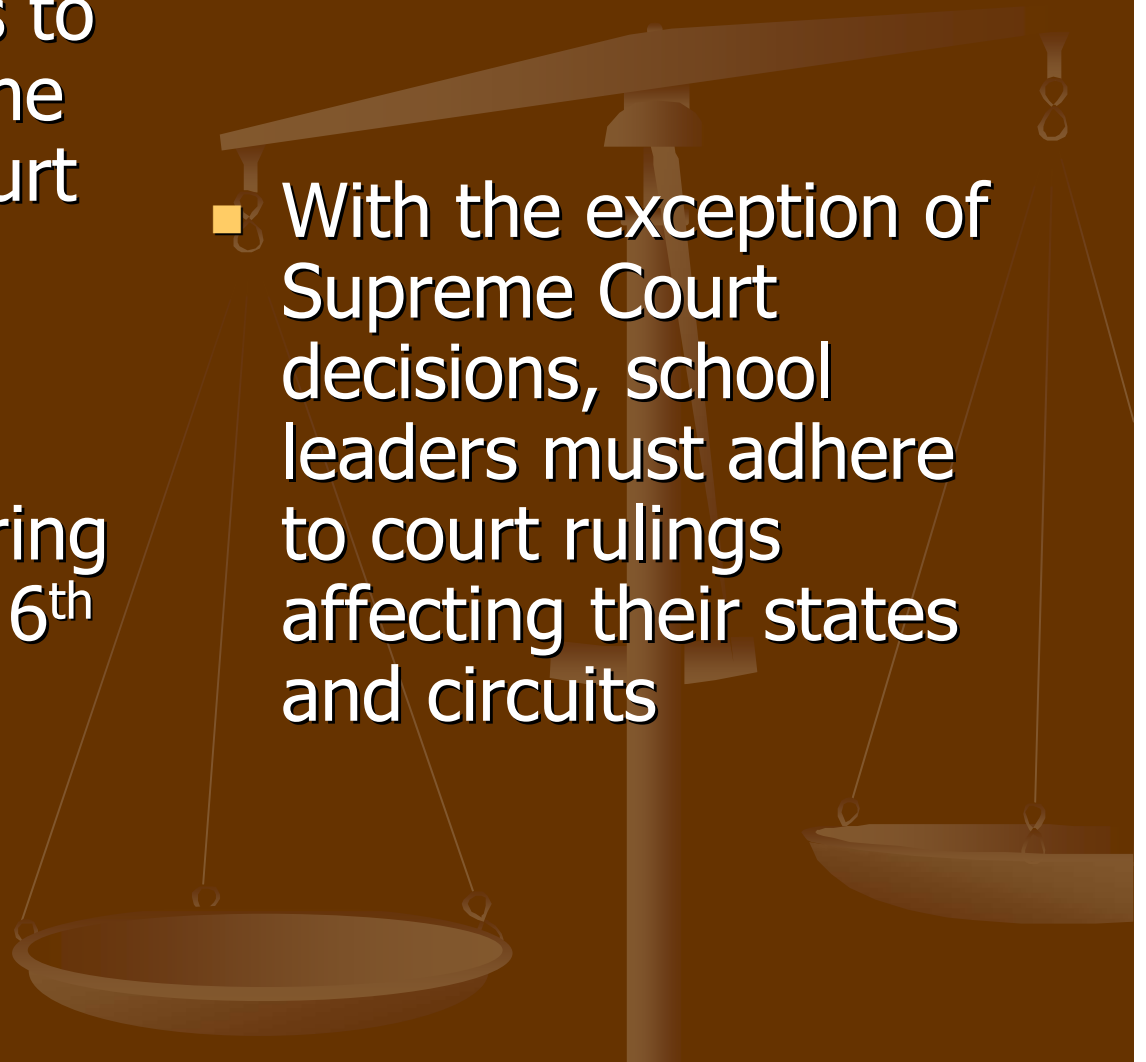
Courts of Special Jurisdiction

Courts of General Jurisdiction



# Jurisdiction

- Wisconsin belongs to the 7<sup>th</sup> Circuit of the Federal Circuit Court of Appeals
- Our state may be affected by bordering jurisdictions – the 6<sup>th</sup> and the 8<sup>th</sup>
- With the exception of Supreme Court decisions, school leaders must adhere to court rulings affecting their states and circuits



# Decoding a Legal Citation



*Thomas v. Board of Education, 607, F.2d 1043, 1051 (2<sup>nd</sup> Cir. 1979)*

Plaintiff/petitioner – Thomas  
Defendant – Board of Education

Volume 607 for the second series of the *Federal Reporter*,  
with the two page numbers

Parenthetical material tells you where the case was heard  
and the year in which the decision was made – Second  
Circuit Court of Appeals in 1979

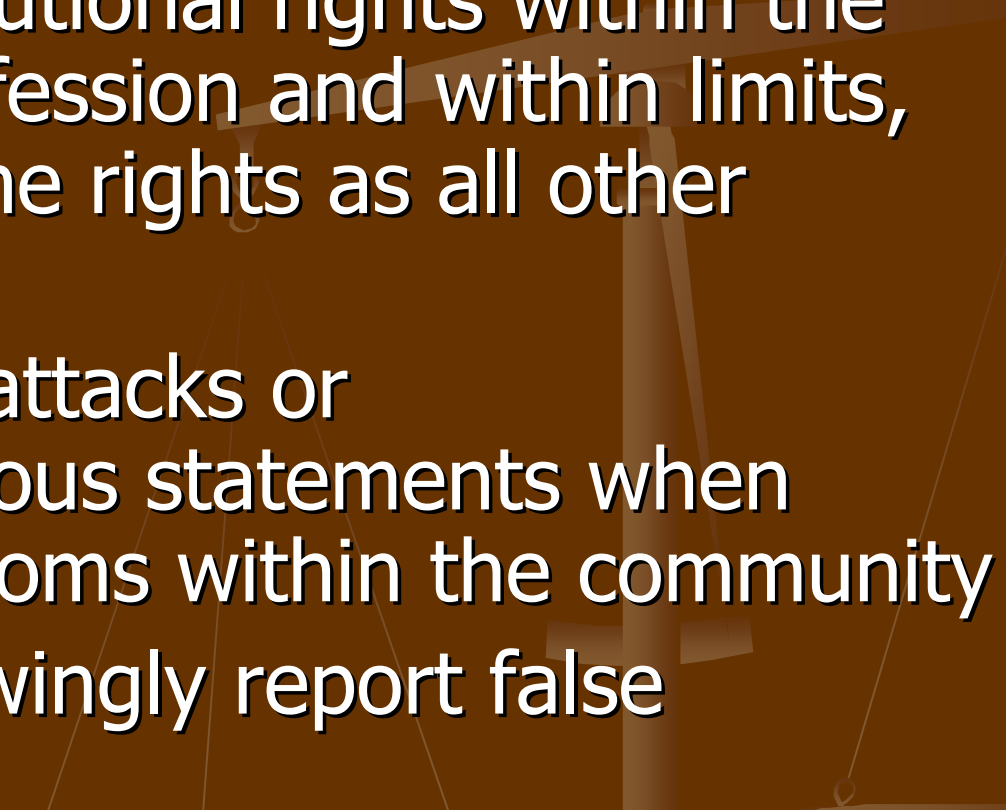
# Common Abbreviations

- A., A2d – *Atlantic Reporter*
- A.L.R. – *American Law Reports*
- F. – *Federal Reporter*
- F.2d – *Federal Reporter, Second Series*
- F.3d – *Federal Reporter, Third Series*
- F. Supp. – *Federal Supplement*
- F. Supp. 2d – *Federal Supplement, Second Series*
- Fed. Reg. – *Federal Register*
- L. Ed. – *Lawyers' Edition United States Supreme Court Reports*
- LexisNexis – *Electronic, fee-based legal research tool*
- Mass. – *Massachusetts Report*
- N.E. – *North Eastern Reporter*
- N.E. 2d – *North Eastern Reporter, Second Series*
- N.W. – *North Western Reporter*
- N.W. 2d – *North Western Reporter, Second Series*
- N.Y.S. – *New York Supplement*
- P. – *Pacific Reporter*
- P. 2d – *Pacific Reporter, Second Series*

# Common Abbreviations

- S.Ct. – *United States Supreme Court Reporter*
  - S.E. – *South Eastern Reporter*
  - S.E. 2d. – *South Eastern Reporter, Second Series*
  - So. – *Southern Reporter*
  - So. 2d – *Southern Reporter, Second Series*
  - Stat. – *Statutes at Large*
  - U.S. – *United States Reports*
  - U.S.C. – *United States Code*
  - U.S.C.A. – *United States Code Annotated*
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# Teacher Freedoms

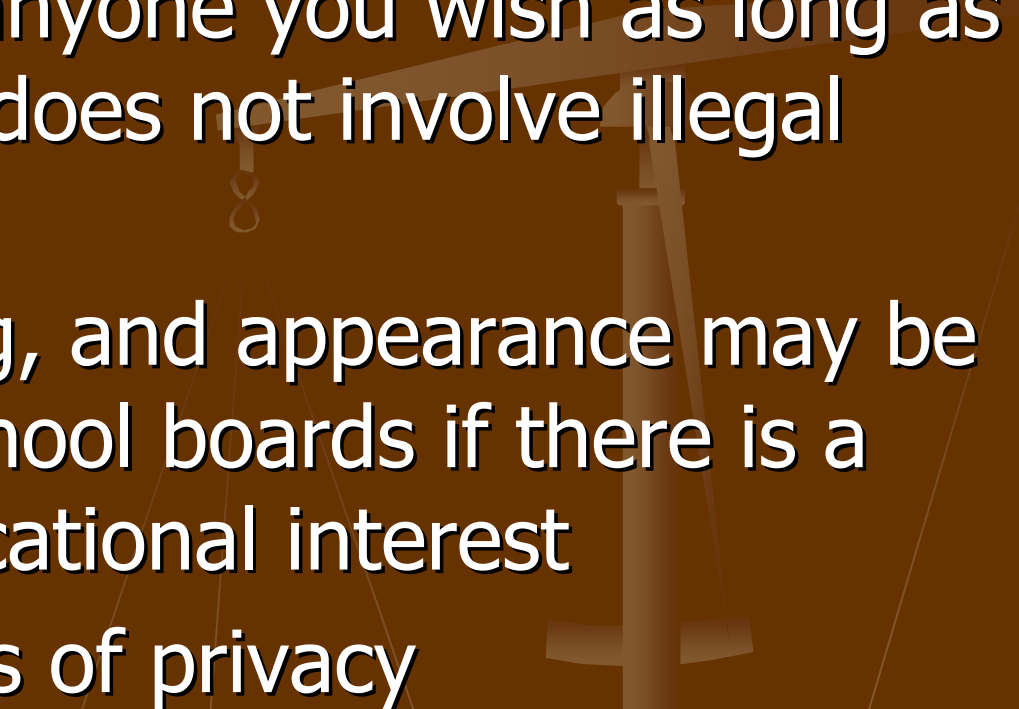
- Maintain constitutional rights within the educational profession and within limits, possess the same rights as all other citizens
  - Avoid personal attacks or libelous/slandorous statements when exercising freedoms within the community
  - Should not knowingly report false information
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# Teacher Freedoms

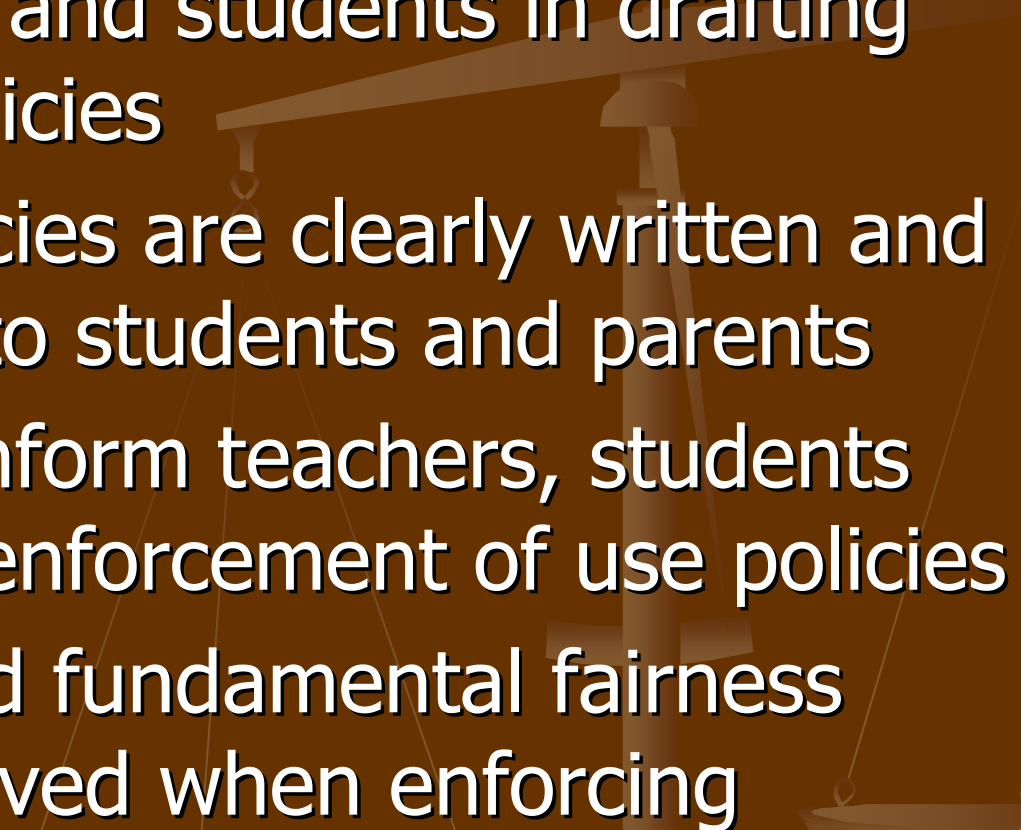


- School officials should not penalize or discriminate against teachers for the proper execution of their First Amendment Rights
- Academic freedom is a limited right. Use appropriate material that is related to the assigned subject matter. The classroom is not to be a forum for a teacher's political or religious views.

# Teacher Freedoms

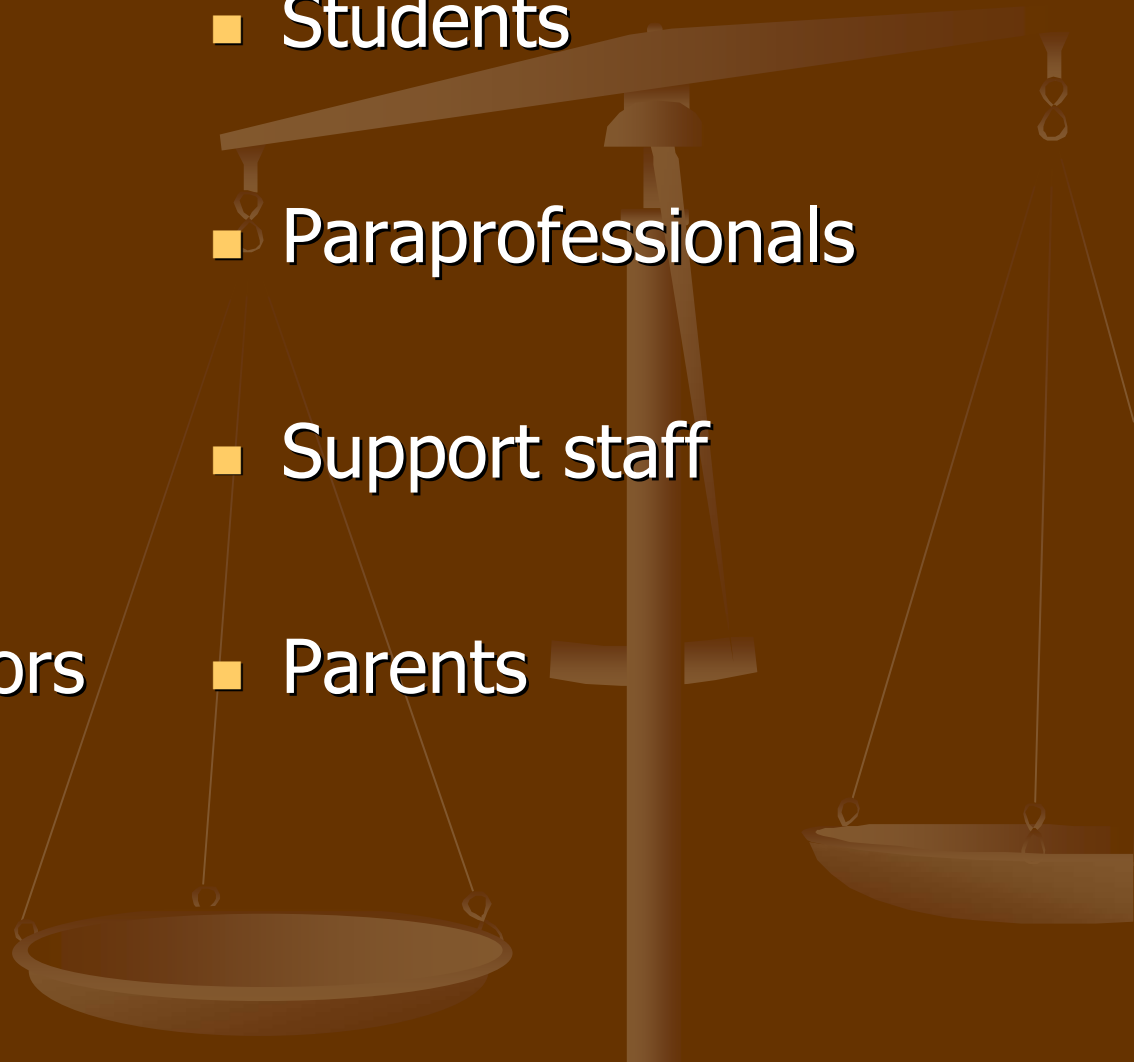
- Associate with anyone you wish as long as the association does not involve illegal activity
  - Dress, grooming, and appearance may be regulated by school boards if there is a compelling educational interest
  - Entitled to rights of privacy
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# Use of the Internet

- Involve parents and students in drafting Internet use policies
  - Insure that policies are clearly written and communicated to students and parents
  - Policies are to inform teachers, students and parents of enforcement of use policies
  - Due process and fundamental fairness should be observed when enforcing
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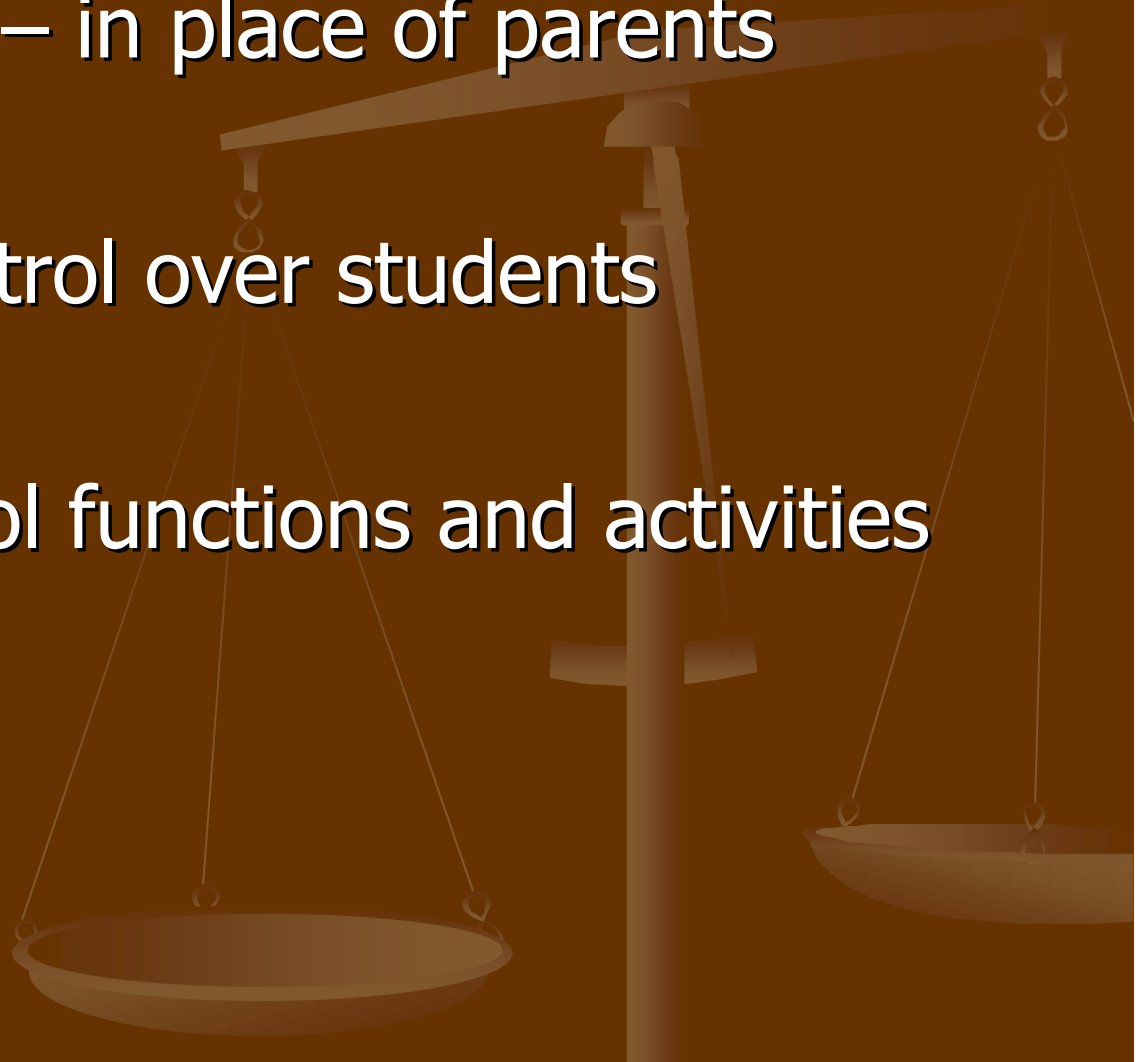
# Team of Enforcers

- Teachers
- Principal (s)
- IT Department
- Other Administrators
- Students
- Paraprofessionals
- Support staff
- Parents

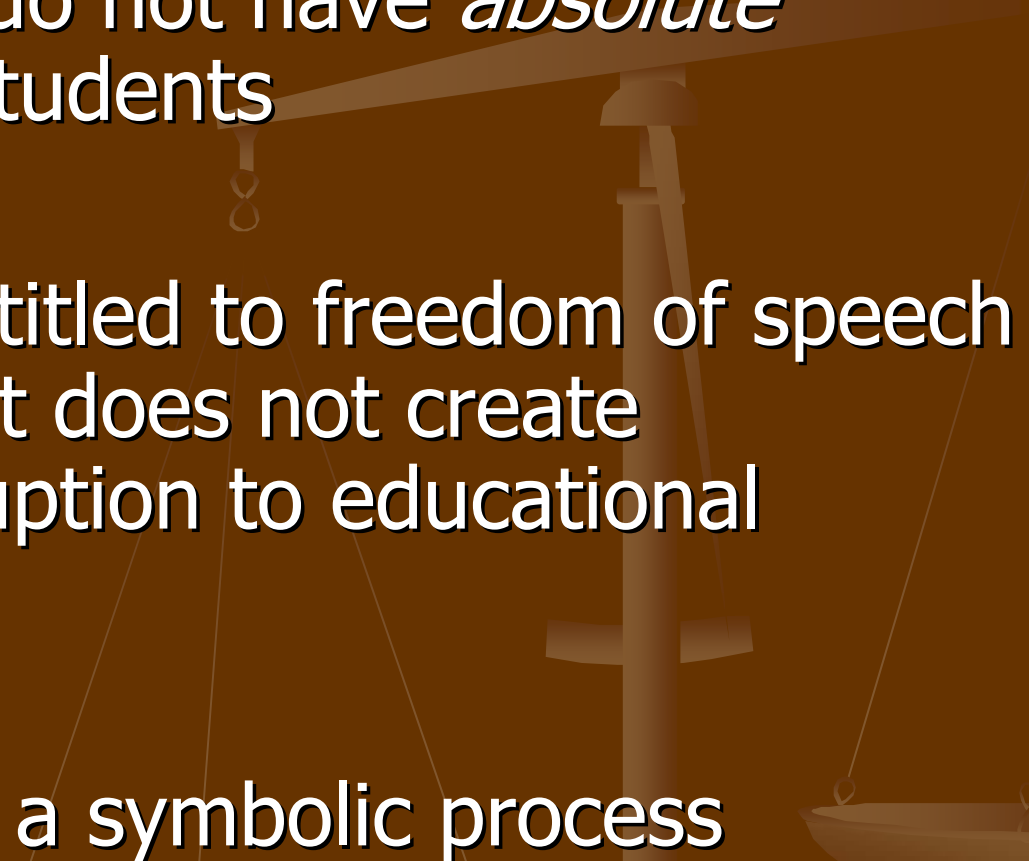


# Schools' Authority

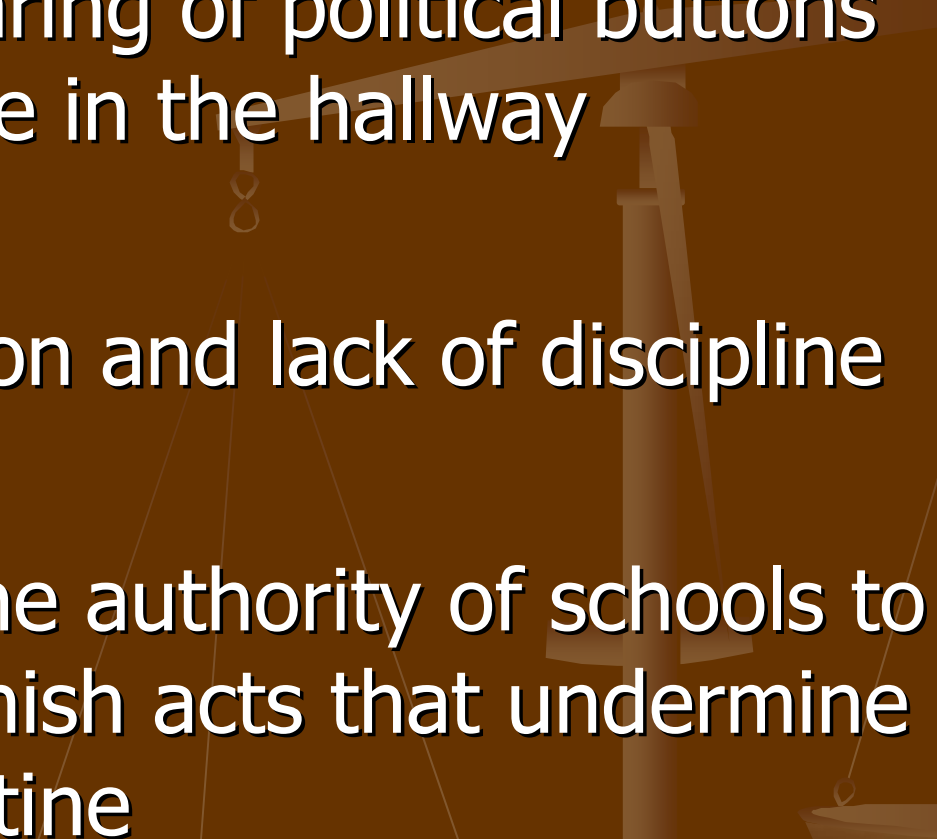
- in loco parentis – in place of parents
- Reasonable control over students
- Limited to school functions and activities



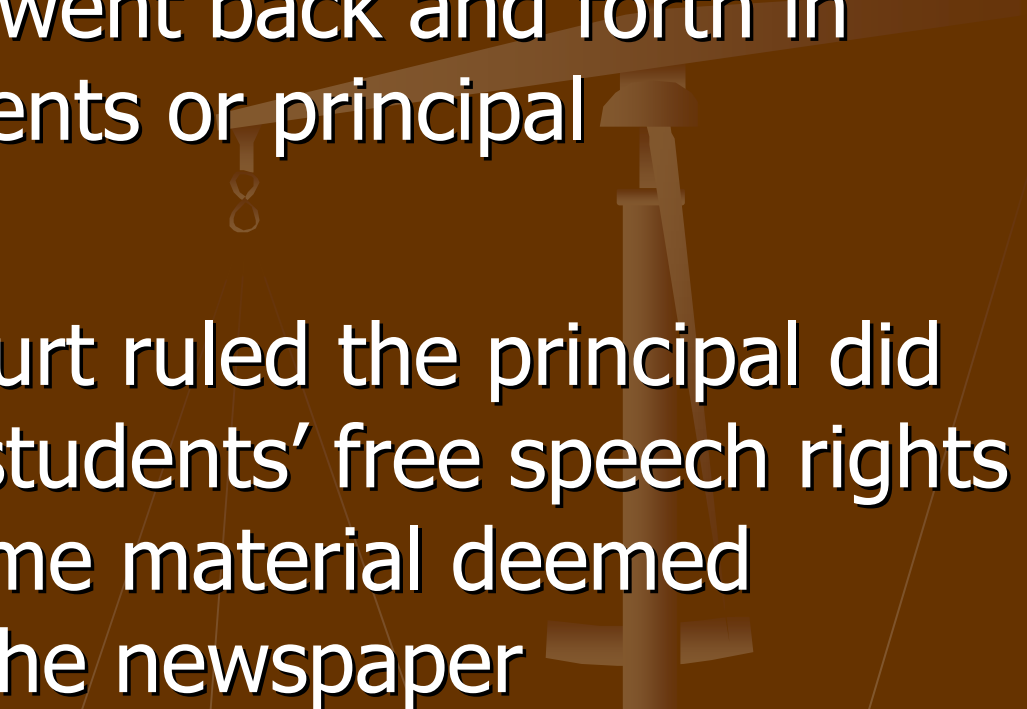
# Tinker v. Des Moines, 1969

- School officials do not have *absolute* authority over students
  - Students are entitled to freedom of speech in a manner that does not create substantial disruption to educational process
  - Speech became a symbolic process
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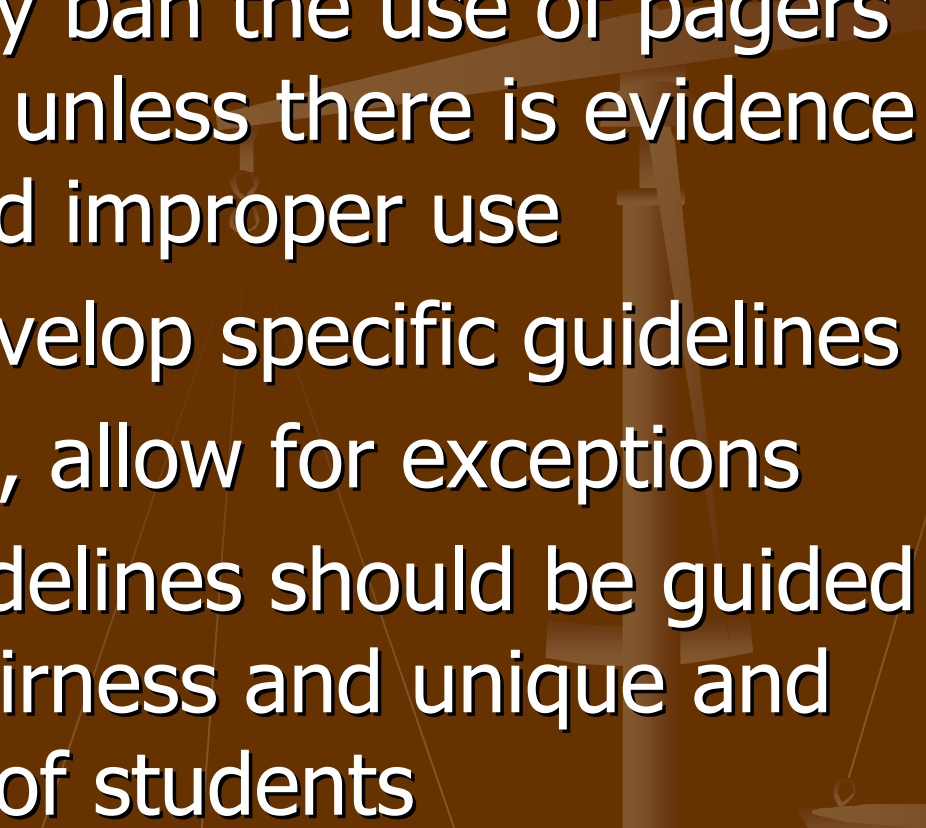
# Blackwell v. Issaquana, 1966

- Banned the wearing of political buttons after disturbance in the hallway
  - General confusion and lack of discipline
  - Always within the authority of schools to prohibit and punish acts that undermine the school's routine
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# Hazelwood v. Kuhlmeier, 1987

- Court decisions went back and forth in defense of students or principal
  - US Supreme Court ruled the principal did not violate the students' free speech rights by removing some material deemed offensive from the newspaper
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# Pagers and Cell Phones

- Do not arbitrarily ban the use of pagers and cell phones unless there is evidence of disruption and improper use
  - If permitted, develop specific guidelines
  - If not permitted, allow for exceptions
  - Policies and guidelines should be guided by a sense of fairness and unique and personal needs of students
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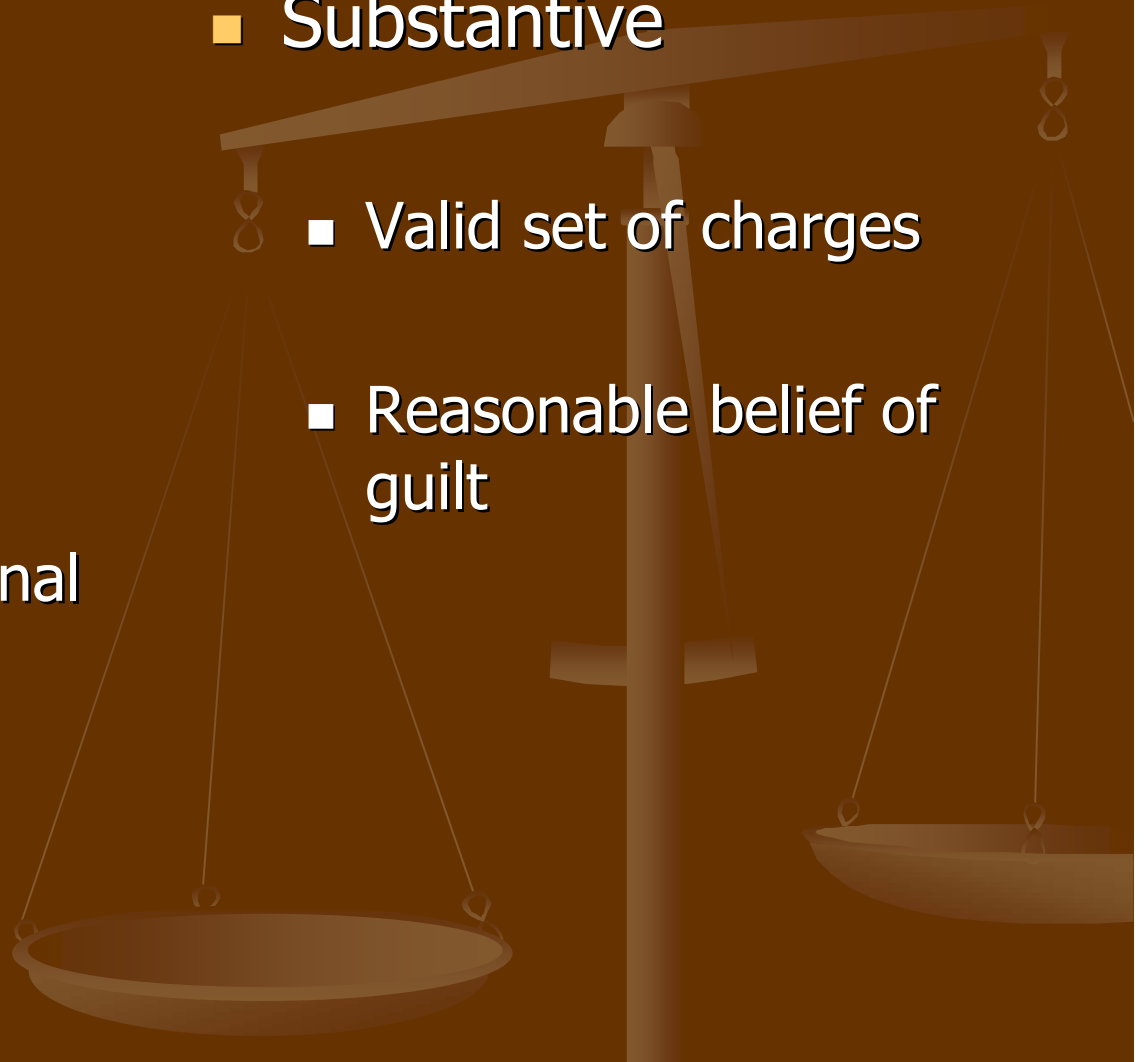
# Due Process

- Procedural

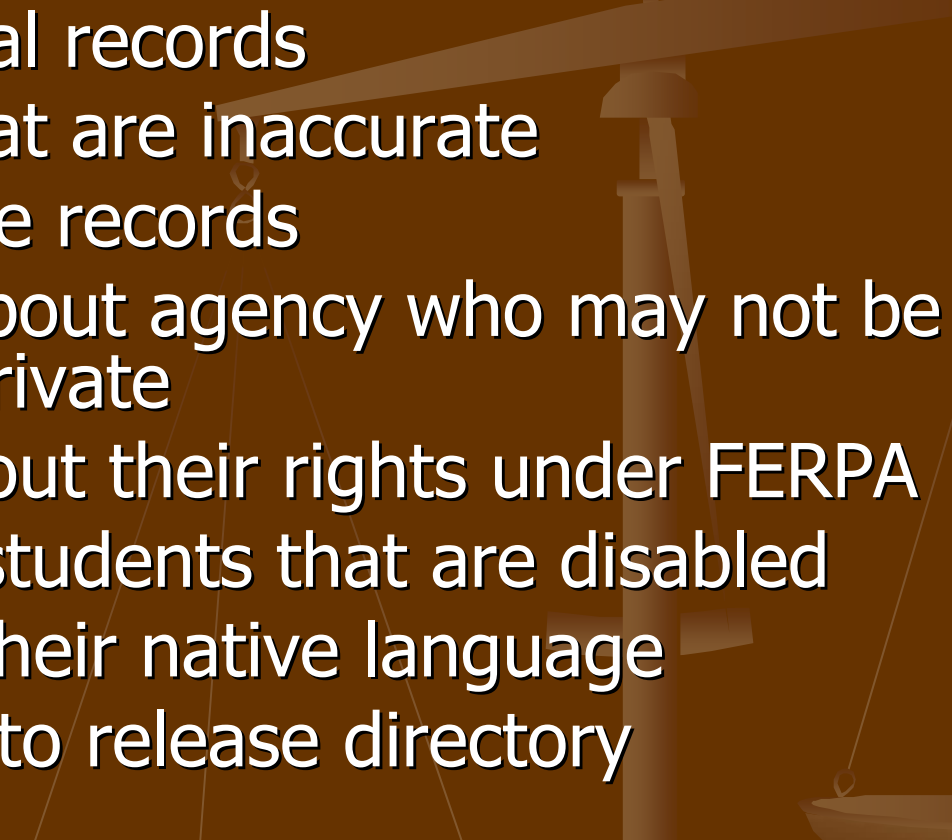
- Proper notice
- Fair hearing
- Protect constitutional rights

- Substantive

- Valid set of charges
- Reasonable belief of guilt



# Family Educational Rights and Privacy Act - FERPA

- Inspect educational records
  - Amend records that are inaccurate
  - Consent to disclose records
  - File a complaint about agency who may not be keeping records private
  - Notice parents about their rights under FERPA
  - Notify parents of students that are disabled
  - Notify parents in their native language
  - Allow parents not to release directory information
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When in doubt -

