



BEYOND THE COURT CASES: CURRICULAR RESPONSES TO THE STUDENT-CITIZEN

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Of all the changes needed in education today, none holds greater promise than that which would bring complete and final recognition of students as citizens. Educators ought to be the most vigorous proponents of such change.

SCHOOL people today have a growing consciousness that *students are citizens*. This fact is achieving a certain acceptance, albeit frequently reluctant, because of recent and not so recent legal action.¹ A more important reason, however, has to do with the young people themselves. They deserve most of the credit. It has been their willingness to be active in their own behalf—to petition, picket, and boycott—that has finally forced the reality of their citizenship upon us.

It has been necessary to *force* this realization, and this will continue to be the case. Old habits of mind are not easily defeated. Several such habits plague the cause of youth. There is the widespread belief that citizenship comes with the vote. This is probably

a result of our having oversold voting as a citizenship activity while failing to “sell” the concept of citizenship as interest in, and activity on behalf of, one’s communities (the school, neighborhood, city). Of course, we have not been very creative about taking advantage of youthful energy and intelligence in these various communities. There must be something more they can do beyond paper drives and bake sales.

Some adults have been aware of the citizenship rights of the young but have believed these rights to be in abeyance when school is in session. This is a misguided notion which, in light of the legal literature, can no longer be successfully defended. Nevertheless, it will continue to be a basis of operation in many places until the youngsters, or some of their all too scarce advocates, raise a sufficient clamor.

Perhaps nothing has done more to retard recognition of student rights than our society’s age-old habit of viewing the young as essentially mindless in their immaturity. They are to be seen and not heard; to do as they are told without question. It is their lot to respect others simply because these others can claim more birthdays than themselves.

¹ See: Richard M. Blankenburg. “Civil Rights of Public School Students.” *Teachers College Record* 72 (4): 495-504; May 1971. Nat Hentoff. “Why Students Want Their Constitutional Rights.” *Saturday Review*, May 22, 1971.

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These attitudes and beliefs will not be easily overcome. There are, however, some encouraging signs. Many school districts have rewritten their pupil personnel rules and regulations so that they come closer to being congruent with the fact of student citizenship. Most notable, perhaps, are the efforts of Seattle and New York City. These efforts, while commendable, represent only beginnings. It is one thing for school administrators to issue new guidelines for "dealing with" pupil personnel. It is quite another to make the principles inherent in the Bill of Rights pervade the human relationships of individual schools.

As challenging a task as this is, as threatening as it is, we must accomplish it if we are to educate a citizenry capable of comprehending and honoring the Bill of Rights. We have been saying for a long time now, that a major goal of American schools must be to "produce" citizens capable of taking constructive, significant roles in their communities. Many have called attention to the fact that such citizens are not nearly numerous enough. The new recognition of students as *citizens*, with the *rights* of citizens, can provide a means of accomplishing this goal. But, this will happen only if our response is wholehearted and energetic as well as intelligent.

The Spirit, Not the Letter, of the Law

The challenge will not be met if schools take the legal minima as their guidelines. That is, honoring the existing case law and nothing more will prove inadequate as a means of gaining the goal. The law, after all, frequently tells us the *least* we can do. If schools are to become the best that they can become, individuals within them must learn to live together in terms of the *spirit* of the law, not the *letter* of the law.

What does this mean for school practice? It means that the Bill of Rights must become a major source of curricular guidance. This is not a recommendation that we look to this document as a source of content alone; we have done that long enough and

hard enough with small effect. No, the nature of the guidance the Bill of Rights offers that is of greatest promise is *behavioral*. It must become a truly living document in the sense that we look to it as a guide to enhanced human relationships in the schools.

How can this come to pass? It will require school communities to be willing to confront the document itself as well as themselves. What is being suggested is that individual schools embark upon an adventure in curricular change that promises to be as exciting and growth producing as any reform since the days of Dewey.

Unannounced locker searches are in direct conflict with the principles of the Bill of Rights, principles which *do* apply to all.



It is of utmost importance that this be a community effort. Community as used here is meant to include the people of the school and the neighborhood(s) it serves. The reader will recognize the dangers of proceeding to deal with a matter such as this solely through the handing down of administrative edicts.

The involvement of many persons, representing all concerned constituencies, is necessary because:

1. There is much work to do.
2. The issues involved are charged with emotion and therefore demand very special communication efforts.
3. The kind of change being sought requires the agreement of involved parties—it cannot be legislated.
4. The process involved in the pursuit of this change is, in and of itself, immensely educative. It represents democracy demonstrated—something the schools have featured too little of.

If the process is to fulfill its promise, participants must approach it with a willingness to admit to past problems and present inequities. There must be a similar willingness, on the part of students, to understand that the past is past and their energies will be best spent on the new effort to see that the past is not repeated.

Implementing the Student Rights

So much for prerequisites. No doubt, every school community will have a somewhat different situation which will mean considering other factors in addition to those just outlined. This is true, too, of the specific steps in the process. However, these can still be discussed so that their general meaning may be better understood.

STEP I: Examination and analysis of the *principles* inherent in the Bill of Rights.

Principles are stressed here because it is being urged that we go beyond the legal

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minima. If we do not, we invite the courts of this nation to serve as our curriculum councils. The courts are ill-prepared to do this, yet we have been guilty of being *behind* the courts in our thinking regarding student rights. Because we have been behind, we have been teaching poorly. Again, let it be clear here that poor teaching has been the result of what we have taught through our *behaviors*, not what we have taught through our academic approaches to content.

An examination of the Bill of Rights will reveal, among others, inherent principles honoring the ideals and concepts of human dignity, personal privacy, and fairness. It is for principles such as these that we look in STEP I. They, and their companions, must be "exposed" and committed to paper. This list will provide the necessary criteria for the next step.

STEP II: Examination and analysis of school practice, procedure, and climate *in light of* the principles inherent in the Bill of Rights and all that they imply for humane personal interaction.

In pursuing this task, participants will face the most difficult aspect of the process. We have been doing certain things certain ways for so long that they have become all but automatic in many schools. So, it will be necessary to work to get "outside" ourselves in order that this be a thoroughly revealing examination and acute analysis.

There are many questions to be faced here. With regard to school practice and procedure, some might be:

1. What happens to a student sent to the office because of conflict with a teacher?
2. Are students punished? If so, how, by whom, after what and with what safeguards?
3. Is there a place for students to be alone?
4. How do students view lockers and other storage areas?
5. How do school authorities view these same areas; how do janitors view them?
6. What are the limits placed upon freedom of expression—in the school news-

paper(s), on bulletin boards, publications of English classes?

Many questions will have to be asked in order to get at school practice and procedure *and what is taught through it*. This is always the question behind the question. It is not enough to ask, "What do we do?" and stop at that. If change is to come, it will be because of realizations achieved in facing the question of what is taught through particular behavior. For example, what do we teach through corporal punishment? What do we teach through general, unannounced locker checks? What do we teach by banning the wearing of political campaign buttons? We address these questions because we really believe people "learn what they live."

Among the questions that might be raised regarding school climate are these:

1. What is the tone of signs in the building? Do they command, request, urge?
2. How much freedom of movement do students have?
3. How do teachers address youngsters? Do they sound like teachers or Marine drill instructors?
4. Does the school day feature times and places that enable students, teachers, administrators, and others to come together informally and voluntarily?

School climate will be difficult to assay. Each school will, no doubt, have its own definition of climate. Nevertheless, it is an extremely important consideration. Properly examined, it will reveal what amounts to, prior to such examination, a hidden yet powerful curriculum.

STEP III: Instituting change in areas of school practice, procedure, and climate where congruency with Bill of Rights principles is absent. The aim of the change is to foster the desired congruency.

The general, unannounced locker check, an example mentioned earlier, will serve here. This procedure is used in some schools to retrieve library books lingering in lockers toward the close of the school year.

Having reached this point in the process, participants in a school where such locker

checks take place, may well decide they must be abandoned because of the conflict with Bill of Rights principles. This is not to say the library must suffer. The object of the search may still be pursued, only by different means: means which do not teach members of an entire student body that they are guilty until proven innocent; means that do not fly in the face of the concept of personal privacy; means that do not force teachers to be agents in an unreasonable search—teachers who, ironically, are also frequently called upon to “teach” (tell about) the Bill of Rights in their classes. There is, of course, the possibility that fewer books will be turned up by such a new approach. This may be a price we must be willing to pay rather than teach what the old procedure teaches.

It should be noted that changes sought in STEP III will not always concern such concrete manifestations as the locker check example. That is, sometimes change of a more subtle sort will be required. It may be in the way the lunchroom is supervised or buses loaded, the way the principal's secretary talks to youngsters or the way the building is cleared at night. In many schools, the adequacy of dealing with these kinds of required changes may well determine the success of the entire effort envisioned here.

Special Privilege for the Young

Perhaps it would be wise, in concluding this discussion of process, to call attention to a potentially serious problem. It has to do with issues surrounding the concepts of freedom and responsibility. In initiating the kind of group effort suggested here, it will be critical to talk about *both* freedom *and* responsibility. The leadership must be clear about this. In any community, there will be people who will need frequently to be assured that *responsible* freedom for youth is being sought. Even with this precaution, leaders may be certain that some will see them as advocates of anarchy.

It will be important, too, to distinguish between legal and moral responsibility. Such a distinction may be clarified by considering the philosophy of the law of the juvenile in

our country. That is, the courts are careful to protect the young from purely legal responsibilities. They do not penalize the mistakes (wrongdoings) of the young with the same severity or in the same spirit as adults. The courts recognize the importance of a certain sheltering of the young so that they may survive mistakes and learn from them. The schools can do no less.

While this does make for a kind of special privilege for the young, it does *not* mean that we cannot ask them to behave responsibly. The responsibility required of student-citizens is the *moral* responsibility to exercise their rights in ways which do not infringe the rights of others. That is the guideline. It is a guideline that is valid long before they start school. When students fail to honor this responsibility, school authorities may limit them with the support of the courts. In recent cases that have gone against school authorities, a major factor has been the inability of these authorities to show that the rights of others had, indeed, been infringed. In other words, they were found guilty of invoking prior restraints. This the courts will not tolerate, if they view the behavior restrained as one protected by the Constitution.

We live in an age of activism. The front pages of our newspapers reflect this daily. Our schools have been the target of much of this activism. While we may question the wisdom of some of the methods employed by people seeking change, few will question the need for change in many aspects of education. Of all the changes that might be made, none holds greater promise than that which would bring complete and final recognition of students as citizens. Educators ought to be the most vigorous proponents of such change. There is still time for us to take the lead—but not much time. Unless our efforts accelerate and intensify, the youngsters and the courts will pass us by. If that happens, it will be clear to all but the most myopic, that any claim we may make to being a profession with the courage of its convictions is insupportable. Indeed, in the eyes of many young people who today harbor hope in us, it will commemorate our cowardice. □

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