

The Right to Education

Governing Law & Relevant Authority

Overview

Education is a fundamental right under the California Constitution. The U.S. Supreme Court has ruled that there is no fundamental right to education under the federal Constitution.

- **Article IX, Section 1 of the California Constitution** recognizes that “[a] general diffusion of knowledge and intelligence [is] . . . essential to the preservation of the rights and liberties of the people” Because of this principle, “California has assumed specific responsibility for a statewide public education system open on equal terms to all.” *Butt v. California*, 4 Cal. 4th 668, 680 (1992).
- The equal protection clauses of the **California Constitution, Article I, Section 7(a) and Article IV, Section 16(a)**, bar the State from maintaining the public school system in a manner that denies some students the basic educational necessities provided to other students.
- In sum, under the **California Constitution**, public education is “uniquely a fundamental concern of the State and prohibits maintenance and operation of the common public school system in a way which denies basic educational equality to the students. The State itself bears the ultimate authority and responsibility to ensure that its district-based system of common schools provides basic equality of educational opportunity.” *Butt v. California*, 4 Cal. 4th 668, 685 (1992).
- **Article IX, Section 5 of the California Constitution** requires the State to “provide for a system of common schools by which a free school shall be kept up and supported in each district.”

Freedom from Discrimination

- In *Brown v. Board of Education of Topeka*, 347 U.S. 483 (1954), the U.S. Supreme Court declared segregated schools unconstitutional.
- In *Plyler v. Doe*, 457 U.S. 202 (1982), the U.S. Supreme Court ruled that excluding children of undocumented immigrants from public schools is unconstitutional. Students and their parents may not be questioned about their citizenship in determining whether students may attend school.
- **Cal. Educ. Code § 220** provides that “[n]o person shall be subjected to discrimination on the basis of disability, gender, nationality, race or ethnicity, religion, sexual orientation ... in any program or activity conducted by an educational institution that receives, or benefits from, state financial assistance or enrolls pupils who receive state student financial aid.”



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