The Constitution Source #3

Generally speaking, the Constitution applies equally to everyone, regardless of age, color, race, religion, or any other factor. However, minors are a special category of person, and in many cases, the rights of minors can be suppressed in ways that the rights of adults simply may not be.

The most obvious reason for this is simply age. Or perhaps better stated, maturity. A four-year-old, or even a ten-year-old, cannot make, nor be expected to make, the same sorts of decisions that an adult can make. Where an adult might be perfectly free to wander the streets at night, a child seen wandering the streets at night would be taken into some sort of protective custody, even if against his will.

There are other violations of a minor's rights that on their face seem quite onerous, but for which there are many legal precedents. The most common such violations are of the rights of students. That is, of children attending school. The rights of free speech, free press, free association, and freedom from unwarranted search and seizure are points of contention between school administrators and students, and have been for decades.

A tactic undertaken by more and more schools of late is that of searching of student lockers, bags, and of their persons. The most relevant case is New Jersey v TLO (469 US 325 [1985]). Here the Court recognized two things. First, it reaffirmed the role of the school in loco parentis, but it also recognized that school officials are representatives of the State. These two roles can come into conflict, but the Court said that students in public school are not able to assert the same rights as adults in other settings. Rules were established for searches, such as reasonableness, not excessively intrusive, and related to the offense that is being investigated. In the TLO case, a search of a student's purse, the purpose for which was to find cigarettes the student was suspected of smoking on school grounds, was upheld.

http://www.usconstitution.net/consttop\_stud.html