

Students

Search and Seizure ¹

In order to maintain order and security in the schools, school authorities are authorized to conduct reasonable searches of school property and equipment, as well as of students and their personal effects. "School authorities" includes school liaison police officers. ²

School Property and Equipment as well as Personal Effects Left On School Property by Students

School authorities may inspect and search school property and equipment owned or controlled by the school (such as, lockers, desks, and parking lots), as well as personal effects left there by a student, without notice to or the consent of the student. Students have no reasonable expectation of privacy in these places or areas or in their personal effects left there. ³

The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.

¹ State or federal law controls this policy's content. This policy concerns an area in which the law is unsettled. Consult the board's attorney with questions about implementing this policy and searching students or seizing their possessions.

According to Fourth Amendment cases, a search by the police requires "probable cause" supported by a warrant. However, in a U.S. Supreme Court decision cited in every student search case, the Court upheld the warrantless search of a student. A search is: (1) justified at its inception when there are reasonable grounds for suspecting the search of a particular student will turn up evidence that the student violated the law or school rules, and (2) permissible in its scope when it is reasonably related to the search's objective and not excessively intrusive. *T.L.O. v. New Jersey*, 469 U.S. 325 (1985).

² The Ill. Supreme Court upheld a search conducted by a school liaison officer, saying: "Decisions ... that involve police officers in school settings can generally be grouped into three categories: (1) those where school officials initiate a search or where police involvement is minimal, (2) those involving school police or liaison officers acting on their own authority, and (3) those where outside police officers initiate a search. Where school officials initiate the search or police involvement is minimal, most courts have held that the reasonable suspicion test [applies]. ... The same is true in cases involving school police or liaison officers acting on their own authority. ... However, where outside police officers initiate a search, or where school officials act at the behest of law enforcement agencies, the probable cause standard has been applied. In the present case, the record shows that Detective Ruettiger was a liaison police officer on staff at the Alternate School, which is a high school student with behavioral disorders. ... We hold that the reasonable suspicion standard applies under these facts." *People v. Dilworth*, 169 Ill.2d 195 (1996).

³ The School Code allows school officials to inspect the personal effects left by a student on property owned or controlled by the school, e.g., lockers, desks, and parking lots. 105 ILCS 5/10-22.6(e). This law does not mean that school officials have an excuse for unjustifiably opening students' possessions looking for contraband (see footnote 1). See *Doe v. Little Rick Sch. Dist.*, 380 F.3d 349 (8th Cir. 2004) (searches conducted pursuant to the following policy were unconstitutional: "[B]ook bags, backpacks, purses and similar containers are permitted on school property as a convenience for students," and "if brought onto school property, such containers and their contents are at all times subject to random and periodic inspections by school officials.").

The Fourth Amendment protects individuals from searches only when the person has a legitimate expectation of privacy. While case law supports that lockers, as school property, may be searched without individualized suspicion of wrongdoing, many cases suggest that in order to search a student's possessions left in the locker, school officials need individualized suspicion of wrongdoing. This paragraph, as well as 105 ILCS 5/10-22.6(e), attempts to avoid Fourth Amendment protection for personal property left by students on school property by telling students not to expect privacy in these places or in their personal property left there. **This is an unsettled area of the law and should be reviewed with the school board's attorney.**

Option for high school and unit districts, insert the following paragraph:

In addition, Building Principals shall require each high school student, in return for the privilege of parking on school property, to consent in writing to school searches of his or her vehicle, and personal effects therein, without notice and without suspicion of wrongdoing.

The Superintendent may request the assistance of law enforcement officials to conduct inspections and searches of lockers, desks, parking lots, and other school property and equipment for illegal drugs, weapons, or other illegal or dangerous substances or materials, including searches conducted through the use of specially trained dogs. ⁴

Students ⁵

School authorities may search a student and/or the student's personal effects in the student's possession (such as, purses, wallets, knapsacks, book bags, lunch boxes, etc.) when there is a reasonable ground for suspecting that the search will produce evidence the particular student has violated or is violating either the law or the District's student conduct rules. ⁶ The search itself must be conducted in a manner that is reasonably related to its objective and not excessively intrusive in light of the student's age and sex, and the nature of the infraction. ⁷

When feasible, the search should be conducted as follows: ⁸

1. Outside the view of others, including students,
2. In the presence of a school administrator or adult witness, and
3. By a licensed employee or liaison police officer of the same sex as the student.

Immediately following a search, a written report shall be made by the school authority who conducted the search, and given to the Superintendent.

Seizure of Property

If a search produces evidence that the student has violated or is violating either the law or the District's policies or rules, such evidence may be seized and impounded by school authorities, and disciplinary

The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.

⁴ 105 ILCS 5/10-22.6(e). The sample policy may be amended to name other staff members who are authorized to request law enforcement aid.

⁵ For more information about searches, seizures, and interviews of students, see *Guidelines for Interviews of Students at School by Law Enforcement Authorities*, published by the Ill. Council of School Attorneys and available at: www.iasb.com/law/ICSAGuidelinesforInterviewsofStudents.pdf.

⁶ T.L.O., 469 U.S. at 342. An unsubstantiated tip from a student may serve as the grounds for a search. People v. Pruitt, 278 Ill.App.3d 194 (1st. Dist. 1996).

⁷ 105 ILCS 5/10-22.6(e) and T.L.O., 469 U.S. at 326.

⁸ Optional; these are practical guidelines that will help to ensure that all searches comply with constitutional requirements. State or federal law requires nothing in this paragraph. For an alternative to intrusive pat-down searches and guidelines on strip searches, see Cornfield v. Consolidated High Sch. Dist. No. 230, 991 F.2d 1316 (7th Cir. 1993). There, school officials had reason to believe that a high school student was concealing illegal drugs in his crotch area. Believing a pat down to be excessively intrusive and ineffective at detecting drugs, the school officials required the student to change into his gym clothes in a locked locker room while male school officials observed him. The search was upheld. But see Stuczynski v. Bremen High Sch., 423 F.Supp.2d 823 (N.D.Ill. 2006) (the requisite individualized, reasonable suspicion to conduct a strip search was missing where the only reason for the strip search was the dean's belief that the students were the last students in a locker room before the money was reported missing.). See also Safford Unified Sch. Dist. v. Redding, 557 U.S. 364 (2009) (finding a strip search of student was not justified under the circumstances even though the asst. principal had reasonable suspicion but still awarded qualified immunity to the asst. principal because the law was unclear).

A school district may randomly conduct a mass search by using a metal detector. People v. Pruitt, 278 Ill.App.3d 194 (1st. Dist. 1996). The use of a metal detector must be according to the district's standards for when and how metal detector searches are to be conducted.

The U.S. Supreme Court upheld a random drug testing policy for student athletes and extracurricular participants. Vernonia Sch. Dist. 47J v. Acton, 515 U.S. 646 (1995); and Indep. Sch. Dist. No. 92 of Pottawatomie County v. Earls, 536 U.S. 822 (2002). The circumstances justifying random drug searches do not exist for the entire student body; thus, random drug tests of the student body would probably not survive constitutional scrutiny.

action may be taken. When appropriate, such evidence may be transferred to law enforcement authorities.⁹

Notification Regarding Student Accounts or Profiles on Social Networking Websites¹⁰

The Superintendent or designee shall notify students and their parents/guardians of each of the following in accordance with the Right to Privacy in the School Setting Act, 105 ILCS 75/:

1. School officials may not request or require a student or his or her parent/guardian to provide a password or other related account information to gain access to the student's account or profile on a social networking website.
2. School officials may conduct an investigation or require a student to cooperate in an investigation if there is specific information about activity on the student's account on a social networking website that violates a school disciplinary rule or policy. In the course of an investigation, the student may be required to share the content that is reported in order to allow school officials to make a factual determination.

LEGAL REF.: T.L.O. v. New Jersey, 469 U.S. 325 (1985).
Vernonia Sch. Dist. 47J v. Acton, 515 U.S. 646 (1995).
Safford Unified Sch. Dist. No. 1 v. Redding, 557 U.S. 364 (2009).
105 ILCS 5/10-20.14, 5/10-22.6, and 5/10-22.10a.
105 ILCS 75/, Right to Privacy in the School Setting Act.
Cornfield v. Consolidated High Sch. Dist. No. 230, 991 F.2d 1316 (7th Cir. 1993).
People v. Dilworth, 169 Ill.2d 195 (1996), *cert. denied*, 517 U.S. 1197 (1996).
People v. Pruitt, 278 Ill.App.3d 194 (1st Dist. 1996), *app. denied*, 167 Ill.2d 564 (1996).

CROSS REF.: 7:130 (Student Rights and Responsibilities), 7:150 (Agency and Police Interviews), 7:190 (Student Behavior)

The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.

⁹ See 105 ILCS 5/10-22.6(e).

¹⁰ Right to Privacy in the School Setting Act, 105 ILCS 75/15. This law prohibits school officials from requiring or requesting a student to provide a password or other related account information. It requires districts to provide parents/guardians with notice of the law. The notification must be published in the school's disciplinary rules, policies, or handbook, or communicated by similar means. The Ill. Principals Association maintains a handbook service that coordinates with PRESS material, *Online Model Student Handbook (MSH)*, at: www.ilprincipals.org/msh/.

