

KNOW YOUR RIGHTS

SCHOOL SEARCHES

Students do not “shed their constitutional rights...at the schoolhouse gate.” *Tinker v. Des Moines Sch. Dist.*, 393 U.S. 503, 506 (1969). The Fourth Amendment protects students from unreasonable searches and seizures at school. *New Jersey v. T.L.O.*, 469 U.S. 325, 333–37 (1985).

Justification: Reasonable Suspicion

In general, school officials need “reasonable suspicion” that a student violated the law or school rules to search or detain the student or their property. Reasonable suspicion exists where there is “a moderate chance of finding evidence of wrongdoing.” *Safford Unified Sch. Dist. No. 1 v. Redding*, 557 U.S. 364, 371 (2009). Reasonable suspicion must involve individualized suspicion, based on specific and articulable facts.

School officials do not need reasonable suspicion to conduct drug tests on students participating in extracurricular activities. *Bd. of Educ. of Independent Sch. Dist. No. 92 of Pottawatomie Cnty. v. Earls*, 536 U.S. 822 (2002).

Scope: Not Excessively Intrusive

Students have privacy interests in their person and in their property. Even when a search is justified, it may not be “excessively intrusive in light of the age and sex of the student and the nature of the infraction.” *T.L.O.* at 342. The Teachers’ Bill of Rights published by the State Superintendent omits this important constitutional requirement.

Oklahoma law categorically forbids strip searches of students. Okla. Stat. tit. 70 § 24-102(B). Oklahoma law does allow the removal and search of “cold weather outerwear, shoes, and hand and head coverings, except religious head coverings.” Schools have greater discretion to search desks and lockers. However, the U.S. Constitution requires that all searches, even if authorized by Oklahoma law, must still respect the student’s privacy interests, consider their age and sex, and be proportional to the evidence and nature of the student’s suspected wrongdoing.