

# New Jersey v. T.L.O. / You Decide: Is this a Legal School Search?—Answer Key

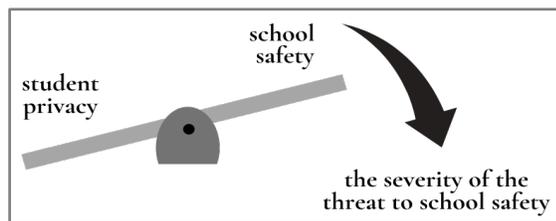
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## Directions:

1. Read the **Background** section below.
  2. Complete the “**Is this a Legal School Search?**” activity (page 3).
  3. If your teacher assigns it, complete the **Extension Activity** (page 5).
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## Background

The Supreme Court determined that school administrators who search students are not required to meet the standard of probable cause or obtain a search warrant. Instead, school searches are examined using the **reasonableness standard**. In other words, did the school administrator have “reasonable suspicion,” based on fact, that a student broke a school rule or law? In *New Jersey v. T.L.O.* (1985), the item searched was T.L.O.’s purse. However, searches at schools may also include backpacks, lockers, vehicles, cellphones, and any other item that a student would bring to school. What areas, and under what circumstances, are school officials allowed to search on a student?



In cases involving the constitutionality of searches, the Supreme Court attempts to balance the liberty of the individual with the order of the government entity. School searches are reasonable when the privacy of the student is carefully balanced with the duty of the school to

maintain discipline and order. It is important to think about this achieving this balance as a seesaw because it is dynamic and can change in each circumstance.

When making decisions, the Court considers the following:

- **Consideration 1:** Is this a search? Places at a school where students do not have a reasonable expectation of privacy do not enjoy Fourth Amendment protections against unreasonable searches and seizures. Therefore, the Supreme Court would typically not classify gathering of evidence from one of these areas as a search due to the fact it is considered public. The fact that many students do consider their personal possessions such as backpacks, items stored in lockers, and vehicles to be private creates uncertainty in analyzing whether protections against unreasonable searches and seizures apply.

Therefore, many school districts have specified where students should not expect to have a reasonable amount of privacy while at school in their policies and procedures. Should there be something a student considers private stored in one of these areas, the Fourth Amendment will not apply.

*Example:* If a school district outlines that lockers are considered to be school property in their policies, students would not have a reasonable expectation of privacy in their lockers. Therefore, there would be no search and the Fourth Amendment would not apply.

- **Consideration 2:** Prior to searching, does the school administrator have a reason to believe that the search will produce evidence that the student was breaking a rule or law?
- **Consideration 3:** Is the school administrator conducting the search in a manner that is reasonably related to the evidence they are looking for? If a student was accused of having a gun in school, a search that would be reasonably related to the evidence or the crime would be in an area where a gun could fit or be carried.
- **Consideration 4:** Does the student consider this to be excessively intrusive considering their age, gender, and nature of the rule or law they are accused of breaking?

This requires a balancing test. The more privacy that a student would have in an area, the more severe the threat to school safety should be to violate it. In other words, the student's privacy should not be violated extensively in light circumstances.

### Is this a Legal School Search?

Read each scenario in the table below. Indicate if the search is legal or illegal by putting an **X** in the appropriate space. Provide a brief explanation for your answer. Use the information from the summary of the decision and majority opinion (page 6) to help you complete the chart.

Scenario	Is this a legal search?	
	(Y)	(N)
<p>1. School administrators receive an email from a student reporting that a member of the cheerleading squad is selling drugs. They confront her and tell her they are going to check her locker. Then they do so.</p> <p><b>Explanation:</b> The answer depends on how they received the report and from whom, but it is most likely a legal search. The search is permissible so long as there are "are reasonable grounds for suspecting that the search will turn up evidence that the student has violated or is violating either the law or the rules of the school", which there seem to be in this case, unless the report is obviously unreliable (e.g., did it come from someone who dislikes the student? Was it sent anonymously?). Students do not have a reasonable expectation of privacy in school lockers because they are school property.</p>	X	
<p>2. Concerned over recent school shootings, the school board installs metal detectors in all local high schools and requires that all students walk through them to enter the building.</p> <p><b>Explanation:</b> Metal detectors are allowed in many states because the courts have ruled that a metal detector is less of an invasion of privacy than frisks or other kinds of searches. They can be used as long as they are not used in a discriminatory way.</p>	X	
<p>3. After one second grader complains of having lost \$5 she got from the tooth fairy, teachers ask all of the students in her class to go into the locker room and remove their clothing so they may be strip-searched.</p> <p><b>Explanation:</b> The search must be conducted in a "reasonable" way, based on age and what the teacher is looking for. Strip searching is illegal in many states, and where it is allowed, there has to be a solid reason to suspect a particular student of having committed a really serious crime.</p>		X

Scenario	Is this a legal search?	
	(Y)	(N)
<p>4. Administrators receive a tip that members of two rival gangs plan to fight after school and that many of the members have brought knives and other weapons to school. The principal calls the police, who conduct a search of the students suspected of being members of the rival gangs.</p> <p><b>Explanation:</b> The answer depends on how the administrators received the tip and from whom but most likely this search would be unconstitutional. In the majority opinion in <i>New Jersey v. T.L.O.</i>, the Supreme Court said that school officials, <b>unlike police</b>, may search students without a warrant when they have "reasonable grounds for suspecting that the search will turn up evidence that the student has violated . . . either the law or rules of the school." However, since the police are doing the searching in this scenario, they need probable cause and not just a reasonable suspicion. Unless the tip was made by someone with first-hand knowledge of the weapons and named particular students, it most likely would not meet the burden of probable cause.</p>		X
<p>5. Concerned about alcohol use at prom, school officials search the vehicles of all students who plan to attend the prom earlier that day in the school parking lot.</p> <p><b>Explanation:</b> School officials may not search students unless they have a good reason to believe that student in particular—not just "someone"—broke a law or a school rule.</p>		X
<p>6. After receiving an anonymous note that a specific student has brought a gun to school, the principal and security guard bring the student to the office, frisk him, and search his locker.</p> <p><b>Explanation:</b> The answer depends on how they received the report but most likely the search is legal. The search is permissible so long as there are "are reasonable grounds for suspecting that the search will turn up evidence that the student has violated or is violating either the law or the rules of the school", which there seem to be in this case. The search would only be unconstitutional if the note was obviously a prank or a hoax.</p>	X	

## **Extension Activity**

At Boulder High School in Boulder, Colorado, \$60,000 worth of surveillance equipment is able to keep track of students on school grounds, in the halls, and in class. The principal is able to remotely manipulate the cameras to zoom in on individuals or groups of students.

Is this constitutional? Explain your answer.

Student answers will vary.

This scenario is based loosely on the appeal of the case *People v. Tafoya* to the Colorado Supreme Court.

## **New Jersey v. T.L.O. (1985)**

**Argued:** March 28, 1984

**Re-argued:** October 2, 1984

**Decided:** January 15, 1985

### **Decision**

In a 6-3 decision, the Supreme Court decided that the school's search of T.L.O. was not unreasonable and was, therefore, constitutional under the Fourth Amendment.

### **Majority**

Writing for the majority of the Court, Justice White explained that the Fourth Amendment's prohibition on unreasonable searches and seizures does apply to searches of students conducted by school officials. Students in schools do have a right to privacy, but this right is lower than the rights of individuals outside of schools. At the same time, school officials have a significant interest in addressing disciplinary problems quickly. This helps ensure the school environment is conducive to learning and students are safe during the school day.

Although the Fourth Amendment still applies to school officials, the Court decided not to require search warrants or probable cause. Instead, the Court required searches in schools to be "reasonable under the circumstances." A school official can start a search if there is a reasonable suspicion that the search will uncover evidence that a student broke school rules or committed a crime. At the same time, any search should invade students' privacy interests no more than is necessary to preserve order.

In this case, Choplick's search of T.L.O. was constitutional. After she was caught smoking in the bathroom, it was reasonable for him to think there might be cigarettes in her purse. During his initial search, Choplick found rolling papers, which are commonly associated with marijuana use. This provided reasonable suspicion that there might be other evidence linked to drug use in her purse. Because the search was constitutional, the evidence seized during the search and her confession should not be suppressed.