

## **New Jersey v. T.L.O. / Excerpts from the Majority Opinion—Answer Key**

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### ***The following are excerpts from Justice White’s majority opinion:***

In determining whether the search at issue in this case violated the Fourth Amendment, we are faced initially with the question whether that Amendment’s prohibition on unreasonable searches and seizures applies to searches conducted by public school officials. We hold that it does.

We have held school officials subject to the commands of the First Amendment . . . Today’s public school officials do not merely exercise authority voluntarily conferred on them by individual parents; rather, they act in furtherance of publicly mandated educational and disciplinary policies . . . In carrying out searches and other disciplinary functions pursuant to such policies, school officials act as representatives of the State, not merely as surrogates for the parents, and they cannot claim the parents’ immunity from the strictures of the Fourth Amendment.

Although this Court may take notice of the difficulty of maintaining discipline in the public schools today, the situation is not so dire that students in the schools may claim no legitimate expectations of privacy.

Nor does the State’s suggestion that children have no legitimate need to bring personal property into the schools seem well anchored in reality. Students at a minimum must bring to school not only the supplies needed for their studies, but also keys, money, and the necessities of personal hygiene and grooming . . . [S]choolchildren may find it necessary to carry with them a variety of legitimate, noncontraband items, and there is no reason to conclude that they have necessarily waived all rights to privacy in such items merely by bringing them onto school grounds.

Against the child’s interest in privacy must be set the substantial interest of teachers and administrators in maintaining discipline in the classroom and on school grounds. Maintaining order in the classroom has never been easy, but in recent years, school disorder has often taken particularly ugly forms: drug use and violent crime in the schools have become major social problems . . . [W]e have recognized that maintaining security and order in the schools requires a certain degree of flexibility in school disciplinary procedures, and we have respected the value of preserving the informality of the student-teacher relationship.

The warrant requirement, in particular, is unsuited to the school environment: requiring a teacher to obtain a warrant before searching a child suspected of an infraction of school rules (or of the criminal law) would unduly interfere with the maintenance of the swift and informal disciplinary procedures needed in the schools . . . [W]e hold today that school officials need not obtain a warrant before searching a student who is under their authority.

The school setting also requires some modification of the level of suspicion of illicit activity needed to justify a search. Ordinarily, a search—even one that may permissibly be carried out without a warrant—must be based upon “probable cause” to believe that a violation of the law has occurred . . . However, “probable cause” is not an irreducible requirement of a valid search. The fundamental command of the Fourth Amendment is that searches and seizures be reasonable, and although “both the concept of probable cause and the requirement of a warrant bear on the reasonableness of a search, . . . in certain limited circumstances neither is required.”

[T]he legality of a search of a student should depend simply on the reasonableness, under all the circumstances, of the search . . . Under ordinary circumstances, a search of a student by a teacher or other school official will be “justified at its inception” when there 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. Such a search will be permissible in its scope when the measures adopted are reasonably related to the objectives of the search and not excessively intrusive in light of the age and sex of the student and the nature of the infraction.

Because the search resulting in the discovery of the evidence of marijuana dealing by T.L.O. was reasonable, the New Jersey Supreme Court’s decision to exclude that evidence from T.L.O.’s juvenile delinquency proceedings on Fourth Amendment grounds was erroneous. Accordingly, the judgment of the Supreme Court of New Jersey is reversed.

## Questions to Consider

1. Why does the Court say the Fourth Amendment applies to students in schools?

The Court mentions that if the First Amendment applies to students in schools, so should the Fourth because "In carrying out searches and other disciplinary functions pursuant to such policies, school officials act as representatives of the State . . . and they cannot claim parents' immunity from the strictures of the Fourth Amendment." Students do need to bring some personal items to school, and there is no reason to deduce that they have waived all privacy rights by doing so.

2. What does the Court say is balanced against the privacy rights of students?

According to the Court, balanced against privacy rights of students is the necessity of maintaining order and discipline in the school setting.

3. Why does the Court say the requirement of a warrant is “unsuited to the school environment”?

The requirement of a warrant is "unsuited to the school environment" because it would be unreasonable to expect a teacher or school official to obtain a warrant each time a student was accused of violating a school rule. Obtaining one can be a time-consuming process and schools usually need to act more quickly to maintain discipline.

4. Describe the standard the Court uses to determine whether a school search is legal or not.

In determining whether a school search is legal or not, the Court has determined that probable cause is not necessary. The Court says that, "Under ordinary circumstances, a search of a student by a teacher or other school official will be 'justified at its inception' when there 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. Such a search will be permissible in its scope when the measures adopted are reasonably related to the objectives of the search and not excessively intrusive in light of the age and sex of the student and the nature of the infraction."

5. Do you think the "reasonableness" standard is adequate to protect the rights of students against invasions of privacy or other abuses? Give your reasons.

Student answers will vary as they can make a case for either answer. On the one hand, the "reasonableness" standard is adequate to protect students against invasions of privacy. Because it requires that teachers or administrators have a degree of suspicion that the student is involved in illegal activity, it will prevent them from conducting random, invasive searches. While there will be some cases in which an individual student is searched and turns out to be innocent, for the most part, this standard will enable teachers and administrators to quickly address disciplinary issues that involve contraband. On the other hand, the "reasonableness" standard is not adequate to protect students against invasions of privacy because "reasonableness" is too subjective and is subject to varying interpretations. In this case, the assistant vice principal thought he had reasonable grounds to search T.L.O., but she disagreed and felt that his actions intruded on her right to privacy. They may ask if anything more than speculation, curiosity, or hostility lead him to search her entire purse.