



“YOU CAN’T SEARCH ME!” REALLY?

Contrary to what many people believe, in certain circumstances, school staff can search a student or his personal belongings (such as his knapsack or locker). There are two main reasons for this. First, a school has the obligation and responsibility to protect the students who attend the school, so as to provide an atmosphere conducive to learning. Thus, staff must be able to maintain order and discipline in the school and ensure compliance with school rules and the law. Second, a student cannot expect absolute respect for his privacy when he is at school.

However, such a search cannot be carried out without a valid reason.

Therefore, school staff cannot search a student without first having reasonable grounds for believing that there has been a breach of school rules or discipline and that the search will provide evidence of the breach.

The following are examples of what may constitute reasonable grounds: information received from a student who is considered credible, information received from more than one student, observations by a teacher, principal or monitor, etc.

In addition, the search cannot be carried out in just any manner.

First, a search carried out by school authorities must be reasonable and appropriate in light of the circumstances and the nature of the suspected breach of school rules. Therefore, the acceptable scope of the search will depend on the seriousness of the suspected breach. The existence of an immediate threat to student safety will justify the use of swift, thorough and comprehensive searches. For example, it may be reasonable for a teacher to act immediately and perform any necessary searches when there are reasonable grounds to believe that a student is carrying a shotgun or other dangerous weapon. By contrast, the same type of search might not be justified if, instead, the student were suspected of having chewing gum in his pocket, despite school rules prohibiting it.

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* The information provided in this document is not a legal interpretation.

The masculine gender has been used to designate persons solely in order to simplify the text.



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(Continued)**

Between these two extremes, there are drug searches. Given the scope and danger that illegal drug possession poses for schools and the fact that it jeopardizes the ability of school officials to fulfil their duty to maintain a safe and orderly environment, if the required reasonable grounds exists it may certainly be reasonable for a teacher to act immediately and perform any necessary searches.

Second, the search must be carried out in a delicate manner, being as respectful and as least invasive as possible. For example, the search may be made by patting down the student over his clothing.

Could such a search go as far as a strip search of the student by school staff? Given the highly intrusive nature of strip searches and the fact that they can be humiliating and embarrassing for those being searched, it would seem that such searches would very rarely, if ever, be necessary or authorized.

However, different rules apply when the search is carried out in a school setting, but by police officers.

Ultimately, whether a school search is carried out by school staff or the police, it is important to remember that it can lead to criminal charges against the student in question. Therefore, in such circumstances, consulting a lawyer is strongly advised.

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