



- ▶ About OSBA
- ▶ Publications
- ▶ CLE
- ▶ OSBA on Facebook
- ▶ Member Resources
- ▶ Certification
- ▶ Committees and Sections
- ▶ Law Student Hub
- ▶ Legislative
- ▶ Casemaker
- ▶ Public Resources
- ▶ Ohio State Bar Foundatio
- ▶ Advertise with Us

PUBLICATIONS

LAW YOU CAN USE

SCHOOLS HAVE AUTHORITY TO SEARCH LOCKERS

As increasing numbers of students have been bringing weapons to school in recent years, preventing violence has become critical. Searching student lockers can prove to be a useful tool, not only in preventing shocking attacks, but also in keeping schools alcohol- and drug-free.

Q: Are schools authorized to search student lockers?

A: Yes. Ohio law gives school boards the authority to institute a policy allowing school officials to search lockers without student permission.

Q: What form might such a policy take?

A: One type of policy the school board may adopt would allow a school official to make a "random" search of any pupil's locker and its contents at any time. If a board wants to establish this type of policy, it must post, in a conspicuous place in each school building, a notice that the lockers are the property of the board and that they and their contents are subject to random search at any time. Having such a policy does not require any suspicion, prior to a search, that illegal or inappropriate items are in the lockers.

Another type of policy, which the board may use in addition to or in place of a "random search" policy, would allow a school official to search any student's locker and the contents of the locker, but only if the school authority "reasonably suspects" that the locker or its contents contain evidence of a student's violation of a criminal statute or school rule.

Even if a board does not adopt one of the above policies, an official still may search lockers and their contents if an emergency situation exists that immediately threatens the health and safety of any person or threatens to damage or destroy any property that the board controls. Therefore, if the official believes that searching lockers will help to dispel a threat, he or she may do so.

Q: What sort of "reasonable suspicion" would justify a locker search?

A: In a recent case, a teacher observed a student smoking a cigarette in school in clear violation of school rules. While talking with the student, the teacher thought she smelled marijuana, which the student denied having smoked. When later called to the principal's office, the student was asked to turn his pockets inside out, but there was no evidence of wrongdoing. The principal then went to the student's locker and searched it. In a pocket of the student's book bag, the principal found a pipe containing residue believed to be marijuana. The student was suspended from school and also found to be a delinquent child by the local juvenile court.

The student claimed that the search of his locker was illegal. The court found, based on the evidence provided by the teacher who had observed the student smoking and had smelled what she believed to be marijuana, that the locker search was "reasonable."

Q: When is a search not justified?

A: Because of the broad nature of the policies that schools are permitted to implement, it is very rare that a search of a student's locker is not justified. However, it may be inappropriate for a school to conduct a more extensive search of a student's personal property that is not located in a locker. Another court decision arising from an after-school fight between two students illustrates what constitutes a violation of student rights. In the scenario, one of the students pulled a knife and threatened violence. While the fight was stopped without a stabbing, the victimized student was told that either the perpetrator or a third girl (let's call her "TJ") would bring a knife to school the next day to resume the fight.

The principal searched TJ's purse, but did not see the knife or any other weapon. The principal continued searching the purse until she noticed a small zippered pocket inside the purse. Although there were no bulges or other signs of a weapon in the zippered pocket, she placed her hand inside the pocket. She felt only a plastic bag, which she did not think contained a weapon. Nevertheless, she took the plastic bag out of the zippered pocket. Later, it was discovered that the plastic bag contained cocaine.

The court found that the principal's search was illegal, since the drugs were not immediately visible, nor did the principal have a "reasonable suspicion" that the search for a knife would uncover drugs. The court deemed the search to be motivated by simple curiosity rather than a reasonable suspicion.

6/23/2011

This "Law You Can Use" column was provided by the Ohio State Bar Association (OSBA). It was originally prepared by Richard A. Slee, Assistant Director of the OSBA Continuing Legal Education Institute, and updated by attorney Kerry Agins, a partner in the Cleveland firm of Siegel & Agins Co.

motivated by simple curiosity rather than a reasonable suspicion.

6/23/2011

This "Law You Can Use" column was provided by the Ohio State Bar Association (OSBA). It was originally prepared by Richard A. Slee, Assistant Director of the OSBA Continuing Legal Education Institute, and updated by attorney Kerry Agins, a partner in the Cleveland firm of Siegel & Agins Co.

[Law You Can Use main page](#)



IS YOUR CASE
GOOD LAW?

FREE 14 day trial!

Find out with the new
CASEcheck+

