



## What Are My Rights During School Searches?



### The Fourth Amendment

The Fourth Amendment of the United States Constitution and Article I, Section 14 of the Ohio Constitution protects all citizens from *unreasonable* searches and seizures of their belongings by the government.

The Fourth Amendment says:

The right of the people to be secure in their persons, houses, papers, and possessions, against unreasonable searches and seizures shall not be violated; and no warrant shall issue, but upon probable cause, supported by oath or affirmation, particularly describing the place to be searched and the person and things to be seized.

This constitutional right provides everyone with an **expectation of privacy** in their homes, cars and other possessions. In other words, no one can enter your home or search your personal property *without your permission*.

Students are also protected against unreasonable searches and seizures by the government, even in school. But in school, students' rights are more limited because teachers and school administrators must maintain safety and order for everyone in the building.

So, when the *state is responsible for maintaining discipline, health and safety – like in public schools – students can be under stricter rules than adults.*



### Can my school search my stuff without a warrant?

Outside of school, a person acting on behalf of the government (like a police officer) must obtain a warrant before conducting a search of a person or their belongings, home, etc.

A **warrant** is an order, issued by a court, that gives police or other law enforcement permission to search specific property, usually because they strongly suspect that they will find something illegal.

In a school setting, school officials are *not* required to have a warrant before searching a student or their belongings. School officials just need two things:

1. A **reasonable belief** that the search will turn up evidence that the student has violated the law or school rules.
2. The search **can't be overly intrusive**.

For example:

1. A principal sees a student putting cigarettes into his bookbag. In this case, the principal will have a *reasonable* belief that if he searches the student's bookbag, he'll find evidence that the student is breaking the law by possessing cigarettes under the age of 21 as well as school rules that ban cigarettes on school property. In this case, the school can search the student's bookbag without a warrant.
2. What if the principal, before searching the bookbag, watches the student put his bookbag in his locker? Can they search the bookbag AND locker? Based on these facts alone, no. Just because the principal has a reasonable belief that cigarettes are in the bookbag, there are no facts giving an administrator a reasonable belief that the cigarettes are located somewhere other than the bookbag, like the locker.
3. What if the principal opens the locker to search the bookbag and then smells marijuana? Can they search the locker without a warrant? Yes. Because the administrator smells marijuana (an illegal substance for those under 21 in Ohio), he will have a reasonable belief that marijuana is in the locker and can search the locker, bookbag, coat and anything else inside the locker to try and locate the source of the marijuana smell. In this scenario, the principal will also be permitted to search the student.



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## General school search policies

Sometimes, a school may conduct searches of students under blanket policies. For instance, some schools may require all students to pass through metal detectors when they enter the building. If the metal detector goes off, the school may search the student.

As another example, a school is allowed to search unattended bags. Ohio considers property that is unattended in public to be abandoned, with no expectation of privacy.

Ohio courts say that searches under these blanket policies must be *reasonable given the circumstances*. Students don't give up their right to privacy just because they walk through the door, but school policies must balance maintaining order and safety against the students' right to privacy.

In these two examples, the school's interest in protecting students and staff from possible explosives, firearms or other contraband is considered highly important.



## Are drug tests considered searches?

Like other searches, any policy or request for a drug screen should be considered to require a *reasonable belief* that a student broke the law or school rules.

Some courts have said that random drug testing of student *athletes* is allowed under the Constitution. That's because student athletes take part in school sports voluntarily and the team has an interest in protecting student athletes from the effects of drug use during athletic events.



## Does my school need my consent to search me?

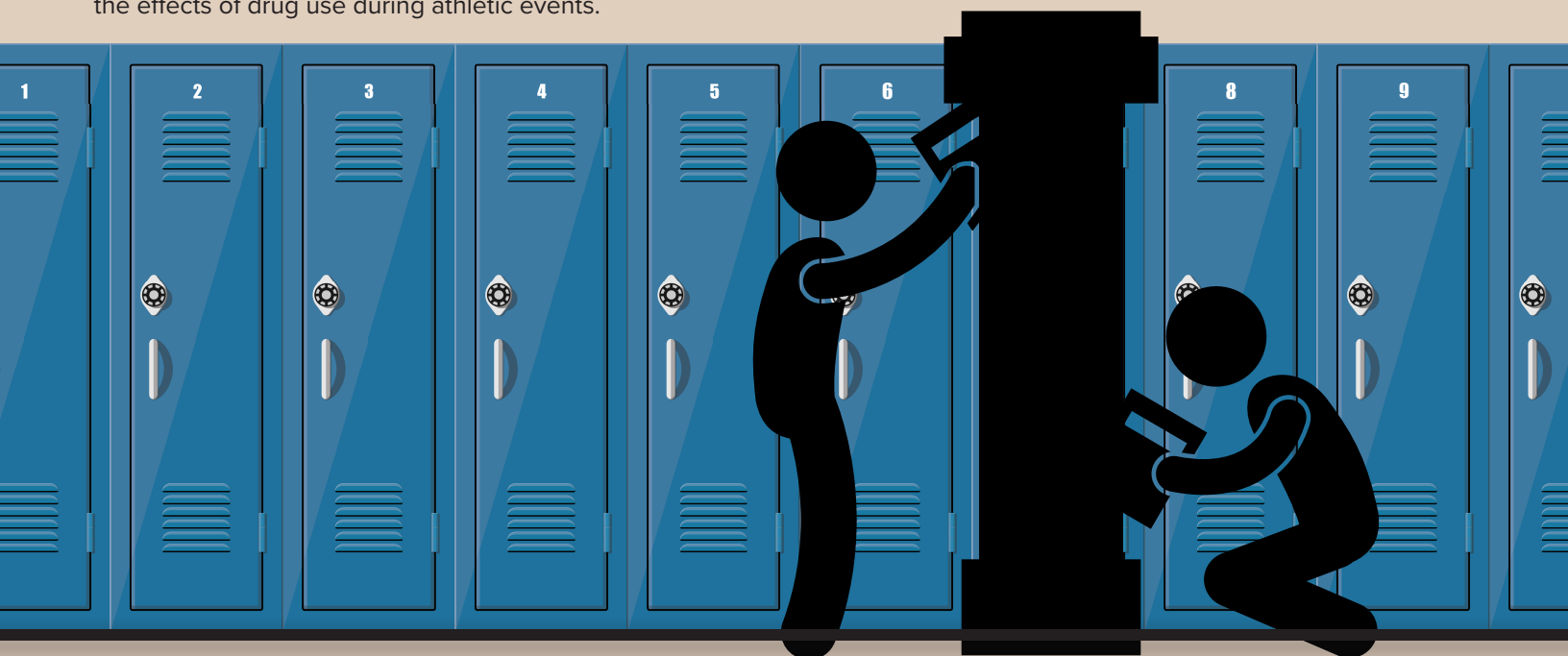
Yes and no. If a school official does *not* have a reasonable suspicion that a student has committed a crime or violated a school rule, the official may still conduct a search without a warrant *if the student voluntarily consents to the search*. Meaning, a student has to give their permission to be searched.

It's important to note that, when consent is given, officials may conduct the search only *within the boundaries of the consent*.

For example, if a school principal asks to search your bag and you say "yes," the principal can search your bag because you gave the principal your consent. If your principal finds nothing illegal or against school rules, they can't then proceed to search your locker without asking. That's because you consented to the limited search of *only* your bag.

But let's say, during the search of your bag, the principal finds a note you wrote to your friend inside that says, "I put your marijuana inside my coat in my locker." Then can the principal search your locker and coat without your consent? Most likely, yes.

During the voluntary search of the bag, the principal found evidence that gave her a reasonable belief that a search of your locker and coat will turn up evidence of a crime or violation of a school rule. So the search of your locker and coat – even though it's done without your consent – is legal.



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## What should I do if a school official asks to search my stuff?

The best thing to do when a school official conducts a search of you or your belongings without a warrant is to **fully comply with their instructions and commands.**

You can ask the official questions, like what specifically they are searching for and what facts they may have to reasonably believe you've broken the law or school rules. If they cannot give you a direct answer, make a mental note of it. **Do not resist the search, argue or fight.**



## What do I do if I think my school has violated my Fourth Amendment rights?

If you believe that a school official is performing an unauthorized search, you should communicate to the school official that you do not consent to the search by stating clearly and calmly, "I do not consent to this search." Again, don't try to resist or argue.

After the search is completed and while it is still fresh in your mind, **document, in as much detail as possible, everything you remember** about the search and the circumstances leading up to, during and after the search. Be sure to include in your notes the names and titles of the individuals who performed the search and the names of any persons who you believe witnessed the search.

**As soon as you can, discuss the search with your parent or guardian and the reasons for why you believe the search was unlawful.** If you and your parent or guardian believe that it is necessary, contact a licensed attorney to discuss the search and any options available to you under the law.

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## School Search Tips:

**The Fourth Amendment provides everyone a right to privacy.** *But* students in public schools are under stricter rules than adults.

**To search a student, school officials need:** *a reasonable suspicion* that a law or rule was broken **OR** *a student's permission* to search.

### If your school searches your stuff:



Don't resist or argue.



Ask questions!



Write down/record what happened ASAP.



Talk to a parent or guardian.