

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

". . . The warrant requirement, in particular, is unsuited to the school environment [T]he legality of a search of a student should depend simply on the reasonableness, under all the circumstances, of the search 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. "

—Justice Byron White, speaking for the majority

TABLE OF CONTENTS

Resources	Activities
2 About landmarkcases.org	The Case
3 Teaching Recommendations Based on Your Time	19 Setting the Stage: Teacher/Student Simulation
4 Background Summary and Questions	21 You Decide: Is this a Legal Search?
••• Reading Level	23 How Do Students' Rights Compare to Adults' Rights?
•• Reading Level	25 Should the Exclusionary Rule Apply to Searches Conducted by School Officials in a School Setting?
• Reading Level	
11 Diagram of How the Case Moved Through the Court System	After The Case
Listen to the Oral Arguments (online only)	29 Real World Case Study: <i>Vernonia and Earls</i>
12 Key Excerpts from the Majority Opinion	Search and Seizure WebQuest/Mock Trial (online only)
15 Key Excerpts from the Concurring Opinion	Additional Resources (online only):
16 Key Excerpts from the Dissenting Opinion	• Ask Sybil Liberty about Your Right to Privacy
Full Text of the Majority Opinion (online only)	• The ACLU's Student Rights Page
	• The Education Law Association: Search and Seizure in the Public Schools
	• The American School Board Journal: School Law Archive
	• Search and Seizure Simulation and Discussion
	• Search and Seizure Simulation and Dramatization

Teaching Recommendations Based on Your Time

If you have one day . . .

- Complete the activity titled "[Setting the Stage: Teacher/Student Simulation](#)" Read the background summary and have students answer questions. Discuss as a class. For homework, have students read the key excerpts from the majority opinion and answer the questions.

If you have two days . . .

- On the first day, complete the simulation and read the background. Discuss the students' answers to the questions.
- On the second day, read the excerpt of the opinion and have students answer the questions. Discuss, then check for understanding by having students complete the activity titled "[You Decide: Is this a Legal Search?](#)" Discuss responses. For homework, upper-level students could complete the "[Real World Case Study: Vernonia v. Acton.](#)"

If you have three days . . .

- On the first day, complete the simulation and read the background. Have students answer questions and discuss as a class.
- On the second day, read the excerpt of the opinion and have students answer the questions. Discuss, then check for understanding by having students complete the activity titled "[You Decide: Is this a Legal Search?](#)" Discuss responses.
- On the third day, complete the "[Real World Case Study: Vernonia v. Acton.](#)" including the section titled "For Further Thought". Students could answer the final question as an essay for homework. *(Note to teacher: It would be best to do this activity in a computer lab, as there are a number of links. If you don't have access to a computer lab, print out the articles for students to read.)*

If you have four days . . .

- Complete all of the activities listed under "If you have three days."
- On the fourth day, complete the activity titled "[How Do Students' Rights Compare to Adults' Rights?](#)" Conclude with "[Should the Exclusionary Rule Apply to Searches Conducted by School Officials in a School Setting?](#)" *(Note to teacher: For this activity, you need to have RealPlayer installed on your computer.)*

About landmarkcases.org

This site was developed to provide teachers with a full range of resources and activities to support the teaching of landmark Supreme Court cases, helping students explore the key issues of each case. The "Resources" section features basic building blocks such as background summaries and excerpts of opinions that can be used in multiple ways. The "Activities" section contains a range of short activities and in-depth lessons that can be completed with students. While these activities are online, many of them can be adapted for use in a one-computer classroom or a classroom with no computer.

Depending upon the amount of time you have to teach the case, you may want to use one or more of the "Resources" or "Activities" in conjunction with one or more of the general teaching strategies. These general teaching strategies include moot court activities, political cartoon analysis, continuum exercises, and Web site evaluation.

If you have time constraints, look at the Teaching Recommendations on page 3.

Feel free to experiment with these materials!

Background Summary and Questions • • •

In 1980, a teacher at Piscataway High School in New Jersey found two girls smoking in a restroom. At the school, smoking in the restrooms was a violation of school rules; smoking was allowed only in the designated smoking area. The teacher escorted the two girls to the principal's office, where they met with an assistant vice principal, Theodore Choplick. One of the girls was T.L.O., a freshman who was 14 years old. The girl who was with T.L.O. admitted that she had been smoking; T.L.O., however, denied the allegation, and said that she did not, in fact, smoke at all.

Choplick took T.L.O. into his office and instructed her to turn over her purse. He opened the purse and found a pack of cigarettes. He took the cigarettes out of the purse and showed them to T.L.O., accusing her of having lied about smoking in the restroom. As he removed the cigarettes, he noticed a package of cigarette rolling papers, which he believed were an indicator of involvement with marijuana. Therefore, he proceeded with a more thorough search of T.L.O.'s purse. This search yielded the following items: a small amount of marijuana, a pipe, empty plastic bags, a significant amount of money in one-dollar bills, a list of students who owed T.L.O. money, and letters implicating T.L.O. in dealing marijuana.

Choplick then called T.L.O.'s mother and the police. The mother came to the school and, at the request of the police, took her daughter to the police station. Choplick turned the evidence from the purse over to the police. At the police station, T.L.O. admitted that she had been selling marijuana at school. As a result of T.L.O.'s confession and the evidence from her purse, the State of New Jersey brought delinquency charges against T.L.O. in the Juvenile and Domestic Relations Court of Middlesex County.

T.L.O. tried to have the evidence from her purse suppressed, contending that the search violated the Fourth Amendment. She also claimed that her confession should be suppressed on the grounds that it was tainted by the unlawful search. The juvenile court rejected her Fourth Amendment arguments, although it conceded that the Fourth Amendment applies to searches by school officials. However, it held that a school official may search a student if that official has a "reasonable suspicion that a crime has been or is in the process of being committed, or reasonable cause to believe that the search is necessary to maintain school discipline or enforce school policies." This is a lower standard than the "probable cause" standard, which is required when police conduct a search.

The juvenile court concluded that Choplick's search was, therefore, reasonable. Choplick was justified in searching the purse, the Court said, because of his reasonable suspicion that T.L.O. had violated school rules by smoking in the restroom. When he opened the purse, evidence of marijuana use was in plain view; this justified the further search of the purse. T.L.O. was found to be a delinquent and, in January 1982, she was sentenced to one year of probation.

T.L.O. appealed her conviction to the appellate division, which found no violation of the Fourth Amendment, but returned the case to juvenile court for determination of a possible Fifth Amendment problem with T.L.O.'s confession. T.L.O. then appealed the appellate division's Fourth Amendment ruling to the Supreme Court of New Jersey.

The Supreme Court of New Jersey reversed the appellate division's ruling and ordered the evidence found in T.L.O.'s purse suppressed. The New Jersey Court relied on Supreme Court of the United States precedent to hold that whenever an "official" search violates constitutional rights, the evidence may not be used in a criminal case. Furthermore, the Supreme Court of New Jersey found that Choplick's search was not reasonable. Mere possession of cigarettes was not a violation of school rules; therefore, a desire for evidence of smoking in the restroom did not justify the search. In addition, the further search of the purse was not justified by the presence of cigarette rolling papers.

In 1983, the Supreme Court of the United States granted the State of New Jersey's petition for *certiorari*. In 1985, the Court handed down its decision.

Background Summary and Questions • • •

Questions to Consider:

1. Read the Fourth Amendment to the U.S. Constitution. Using the words of the Amendment, try to make an argument that the search of T.L.O.'s purse was a violation of her Fourth Amendment rights.
2. Try to make an argument that the Fourth Amendment does not apply to students in public schools at all.
3. Under the circumstances outlined above, does the search of T.L.O.'s purse seem "reasonable" to you? Why or why not?
4. What procedures are in place in your school governing searches of students? Could a search like the one in this case happen in your school?
5. How should the Supreme Court of the United States rule in this case?

Background Summary and Questions • •

In 1980, a teacher at Piscataway High School in New Jersey found two girls smoking in a restroom. One of the girls was T.L.O., a freshman who was 14 years old. Smoking in the restrooms was a violation of school rules (but was permitted in other areas of the school). The teacher took the two girls to the principal's office, where they met with Assistant Vice Principal Theodore Choplick. The second girl admitted that she had been smoking. T.L.O. said she had not been smoking and said that she did not smoke at all.

Choplick took T.L.O. into his office and instructed her to turn over her purse. He opened the purse and found a pack of cigarettes. He took the cigarettes out of the purse and showed them to T.L.O. He accused her of having lied about smoking in the restroom. As he removed the cigarettes, he noticed a package of cigarette rolling papers. He believed that cigarette rolling papers were a sign of involvement with marijuana. Therefore, he decided to search further in T.L.O.'s purse. He found the following items: a small amount of marijuana, a pipe, empty plastic bags, a significant amount of money in one-dollar bills, a list of students who owed T.L.O. money, and letters implicating T.L.O. in dealing marijuana.

Choplick then called T.L.O.'s mother and the police. The mother came to the school. The police asked her to take her daughter to the police station. Choplick gave the items from the purse to the police. At the police station, T.L.O. admitted that she had been selling marijuana at school. As a result of her admission and the evidence from the purse, the State of New Jersey brought delinquency charges against T.L.O. in the Juvenile and Domestic Relations Court of Middlesex County.

T.L.O. tried to have the evidence from her purse kept out of court, saying that the search violated the Fourth Amendment. She also argued that her confession should be suppressed, because it resulted from the illegal search. The juvenile court turned down her Fourth Amendment arguments, although it did agree that the Fourth Amendment applies to searches by school officials. However, it held that a school official may search a student if that official has a "reasonable suspicion that a crime has been or is in the process of being committed, or reasonable cause to believe that the search is necessary to maintain school discipline or enforce school policies."

The juvenile court concluded that Choplick's search was reasonable. Choplick was justified in searching the purse, the Court said, because of his reasonable suspicion that T.L.O. had violated school rules by smoking in the restroom. When he opened the purse, evidence of marijuana use was in plain view. This justified the further search of the purse. T.L.O. was found to be a delinquent and, in January 1982, she was sentenced to one year of probation.

T.L.O. appealed her case in the New Jersey courts. The Supreme Court of New Jersey found that Choplick's search was unreasonable. The state appealed.

In 1983, the Supreme Court of the United States granted the State of New Jersey's petition for *certiorari*. In 1985, the Court handed down its decision.

Background Summary and Questions • •

Questions to Consider:

1. Read the Fourth Amendment to the U.S. Constitution. Using the words of the Amendment, try to make an argument that the search of T.L.O.'s purse was a violation of her Fourth Amendment rights.
2. Now try to make an argument that the Fourth Amendment does not apply to students in public schools at all.
3. Under the circumstances outlined above, does the search of T.L.O.'s purse seem "reasonable" to you? Why or why not?
4. What procedures are in place in your school governing searches of students? Could a search like the one in this case happen in your school?
5. How should the Supreme Court of the United States rule in this case?

Background Summary and Questions •

Vocabulary

search

Define:

Use in a sentence:

evidence

Define:

Use in a sentence:

confession

Define:

Use in a sentence:

suppressed

Define:

Use in a sentence:

suspicion

Define:

Use in a sentence:

probation

Define:

Use in a sentence:

In 1980, a teacher at a high school in New Jersey found two girls smoking in a bathroom. Students were allowed to smoke in some areas of the school, but smoking in the restrooms was against school rules. The teacher took the two girls to the principal's office. There, they met with Assistant Vice Principal Theodore Choplick. One of the girls was T.L.O., a 14-year-old freshman. T.L.O. said she had not been smoking and said that she did not smoke at all. The second girl admitted that she had been smoking.

Choplick took T.L.O. into his office. He told her to give him her purse. When he opened the purse, he found a pack of cigarettes. He took the cigarettes out of the purse and showed them to T.L.O. He said she had lied about smoking in the restroom. He also found a package of cigarette rolling papers. In his opinion, this meant that T.L.O. might be using marijuana. He decided to *search* T.L.O.'s purse some more. When he did so, he found some marijuana, a pipe, and empty plastic bags. He also found one-dollar bills, a list of students who owed T.L.O. money, and some letters. In the letters, there was information that showed that T.L.O. was selling marijuana.

Choplick then called T.L.O.'s mother and the police. They both came to the school. Choplick gave the items from the purse to the police. The police asked the mother to take T.L.O. to the police station. At the police station, T.L.O. admitted that she had been selling marijuana at school. The State of New Jersey brought charges against T.L.O. The *evidence* they used was T.L.O.'s admission and the items from her purse.

T.L.O. said that the search violated the Fourth Amendment protection against unreasonable search and seizure. She tried to have the evidence from her purse kept out of court. She also argued that her *confession* should be *suppressed*, because it happened as a result of the unreasonable search. The juvenile court turned down her Fourth Amendment arguments. The Court said that a school official may search a student if that official has a "reasonable *suspicion* that a crime has been or is in the process of being committed". A school official may also search a student if he has "reasonable cause to believe that the search is necessary to maintain school discipline or enforce school policies."

The juvenile court concluded that Choplick's search was reasonable. It said that Choplick was justified in searching the purse because of his reasonable suspicion that T.L.O. had violated school rules by smoking in the restroom. When Choplick opened the purse, *evidence* of marijuana use was in plain view. This justified the further search of the purse. In January 1982, T.L.O. was found delinquent and sentenced to one year of *probation*.

T.L.O. appealed her case in the New Jersey courts. The Supreme Court of New Jersey found that Choplick's search was unreasonable. The state appealed.

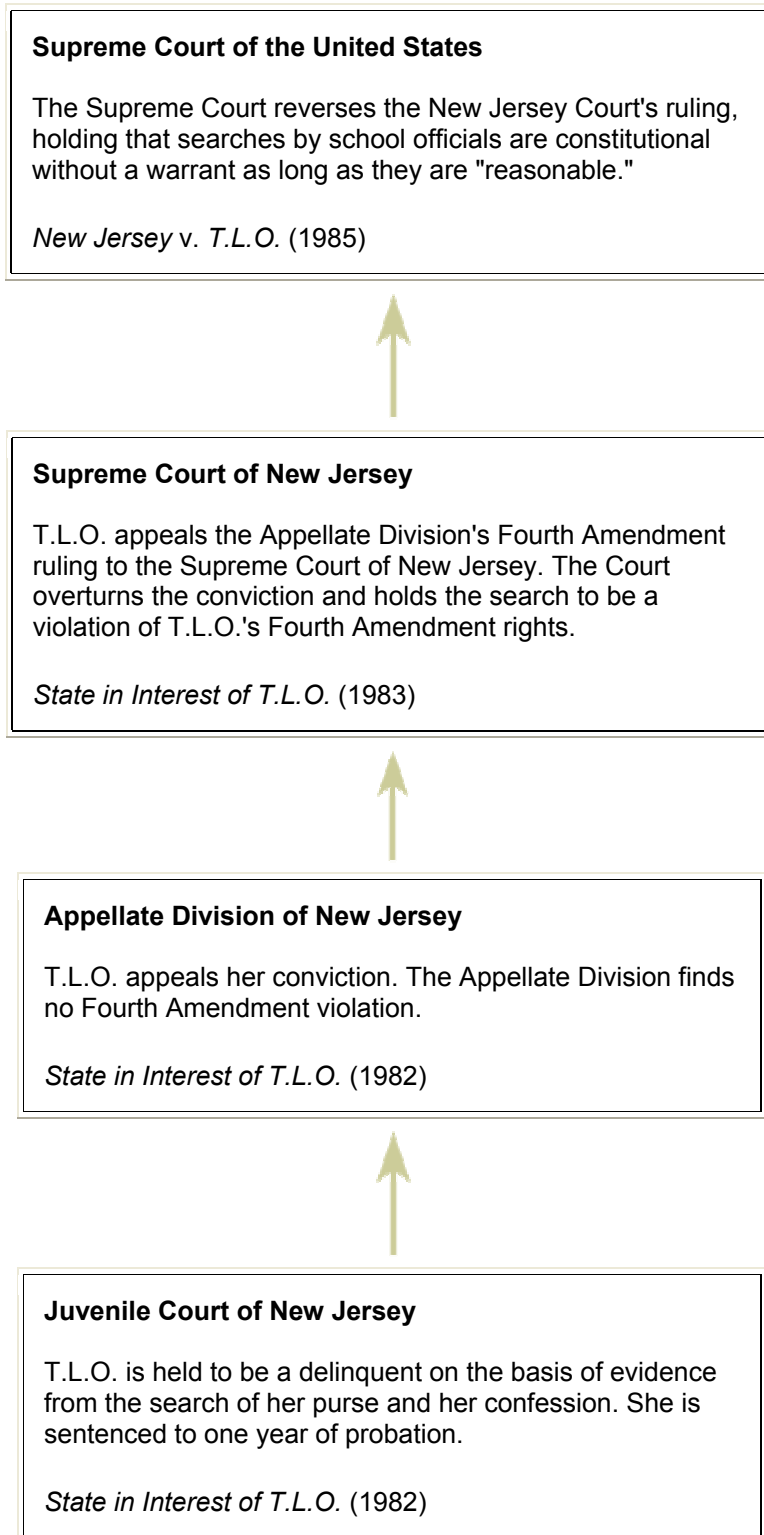
In 1983, the Supreme Court of the United States agreed to hear the case. In 1985, the Court handed down its decision.

Background Summary and Questions •

Questions to Consider:

1. Why did Choplick search T.L.O.'s purse?
2. What does the Fourth Amendment say?
3. Try to make an argument that the search of T.L.O.'s purse was a violation of her Fourth Amendment rights.
4. Now try to make an argument that the Fourth Amendment does not apply to students in public schools at all.
5. Does the search of T.L.O.'s purse seem "reasonable" to you? Why or why not?
6. Should the procedures for searching students in schools be the same as the procedures for searching adults? Why or why not?

Diagram of How the Case Moved Through the Court System



Key Excerpts from the Majority Opinion

**The case was decided 6 to 3.
Justice White delivered the opinion of the Court.**

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

New Jersey v. T.L.O.

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.

Key Excerpts from the Majority Opinion

Questions to Consider:

1. Why does the Court say the Fourth Amendment applies to students in schools?
2. What does the Court say is balanced against the privacy rights of students?
3. Why does the Court say the requirement of a warrant is "unsuited to the school environment"?
4. Describe the standard the Court uses to determine whether a school search is legal or not.
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.

Key Excerpts from the Dissenting Opinions

Justice Brennan, with Justice Marshall joining, wrote an opinion concurring in part and dissenting in part.

. . . Today's decision sanctions school officials to conduct full scale searches on a "reasonableness" standard whose only definite content is that it is *not* the same test as the "probable cause" standard found in the text of the Fourth Amendment. . .

. . . Our holdings that probable cause is a prerequisite to a full-scale search are based on the relationship between the two Clauses of the Fourth Amendment. The first Clause ("The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated . . .") states the purpose of the Amendment and its coverage. The second Clause (" . . . and no Warrants shall issue but upon probable cause . . .") gives content to the word "unreasonable" in the first Clause.

. . . For me, the finding that the Fourth Amendment applies, coupled with the observation that what is at issue is a full-scale search, is the end of the inquiry. But even if I believed that a "balancing test" appropriately replaces the judgment of the Framers of the Fourth Amendment, I would nonetheless object to the cursory and shortsighted "test" that the Court employs to justify its predictable weakening of Fourth Amendment protections.

. . . As compared with the relative ease with which teachers can apply the probable-cause standard, the amorphous "reasonableness under all the circumstances" standard freshly coined by the Court today will likely spawn increased litigation and greater uncertainty among teachers and administrators . . .

. . . Applying the constitutional probable-cause standard to the facts of this case, I would find that Mr. Choplick's search violated T.L.O.'s Fourth Amendment rights. After escorting T.L.O. into his private office, Mr. Choplick demanded to see her purse. He then opened the purse to find evidence of whether she had been smoking in the bathroom. When he opened the purse, he discovered the pack of cigarettes. At this point, his search for evidence of the smoking violation was complete.

. . . On my view of the case, we need not decide whether the initial search conducted by Mr. Choplick—the search for evidence of the smoking violation that was completed when Mr. Choplick found the pack of cigarettes—was valid. For Mr. Choplick at that point did not have probable cause to continue to rummage through T.L.O.'s purse . . . Therefore, the fruits of this illegal search must be excluded and the judgment of the New Jersey Supreme Court affirmed.

Justice Stevens, with Justice Marshall joining, and with Justice Brennan joining in part, wrote an opinion concurring in part and dissenting in part.

. . . [T]he New Jersey court . . . reasoned that this Court's cases have made it quite clear that the exclusionary rule is equally applicable "whether the public official who illegally obtained the evidence was a municipal inspector, a firefighter, or a school administrator or law enforcement official." It correctly concluded "that if an official search violates constitutional rights, the evidence is not admissible in criminal proceedings".

. . . Schools are places where we inculcate the values essential to the meaningful exercise of rights and responsibilities by a self-governing citizenry. If the Nation's students can be convicted through the use of arbitrary methods destructive of personal liberty, they cannot help but feel that they have been dealt with unfairly. The application of the exclusionary rule in criminal proceedings arising from illegal school searches makes an important statement to young people that "our society attaches serious

New Jersey v. T.L.O.

consequences to a violation of constitutional rights," and that this is a principle of "liberty and justice for all".

. . . A standard better attuned to this concern would permit teachers and school administrators to search a student when they have reason to believe that the search will uncover *evidence that the student is violating the law or engaging in conduct that is seriously disruptive of school order, or the educational process.*

. . . In the view of the state court, there is a quite obvious and material difference between a search for evidence relating to violent or disruptive activity, and a search for evidence of a smoking rule violation. This distinction does not imply that a no-smoking rule is a matter of minor importance. Rather, like a rule that prohibits a student from being tardy, its occasional violation in a context that poses no threat of disrupting school order and discipline offers no reason to believe that an immediate search is necessary to avoid unlawful conduct, violence, or a serious impairment of the educational process.

. . . Like the New Jersey Supreme Court, I would view this case differently if the Assistant Vice Principal had reason to believe T.L.O.'s purse contained evidence of criminal activity, or of an activity that would seriously disrupt school discipline. There was, however, absolutely no basis for any such assumption—not even a "hunch".

. . . The schoolroom is the first opportunity most citizens have to experience the power of government. Through it passes every citizen and public official, from schoolteachers to policemen and prison guards. The values they learn there, they take with them in life. One of our most cherished ideals is the one contained in the Fourth Amendment: that the government may not intrude on the personal privacy of its citizens without a warrant or compelling circumstance. The Court's decision today is a curious moral for the Nation's youth. Although the search of T.L.O.'s purse does not trouble today's majority, I submit that we are not dealing with "matters relatively trivial to the welfare of the Nation. There are village tyrants as well as village Hampdens, but none who acts under color of law is beyond reach of the Constitution."

I respectfully dissent.

Key Excerpts from the Dissenting Opinions

Questions to Consider:

1. In the first dissenting opinion, what is the objection of Justice Brennan to the "reasonableness" standard used in the Court's majority opinion?
2. What does Justice Brennan say will be the likely result of using the "reasonableness" standard?
3. Why does Justice Brennan say the search of T.L.O.'s purse should have been held unconstitutional?
4. In the second "separate opinion", Justice Stevens says, "The application of the exclusionary rule in criminal proceedings arising from illegal school searches makes an important statement to young people that 'our society attaches serious consequences to a violation of constitutional rights,' and that this is a principle of 'liberty and justice for all'". Do you agree or disagree?
5. Justice Stevens suggests an alternate standard for use in judging the legality of school searches. What is that standard? Do you think this standard would work better than the standard in the Court's majority opinion?
6. In his conclusion, Justice Stevens makes an argument that the Court's decision is a "curious moral for the Nation's youth". Do you agree or disagree with this argument? Why?
7. Did reading the separate opinions in this case change your opinion about the Court's decision? Explain.

Setting the Stage: Teacher/Student Simulation

(Note to teachers: If possible, complete this activity as a simulation at the beginning of class. Inform the student "suspect" ahead of time and make arrangements with one of the school's security guards. Don't show students the prepared questions. Instead, pretend that it is a real event. If you're not able to do so, have students read the conversation below and answer the questions.)

As you walk into class, you observe this conversation between your teacher and one of your classmates.

Teacher: "You smell like cigarette smoke. Have you been smoking?"

Student: "Me? No way, man, I don't smoke."

Teacher: "I don't believe you. Let me see your backpack. I'm going to call security and have them check it for cigarettes."

Student: "You're kiddin' me, right? I didn't do anything wrong. Plus, they can't search me without a warrant."

Teacher: "They can and they will. You're underage and it's illegal to smoke in school."

At this point, a security guard enters the room and approaches the student.

Security Guard: "Come with me and bring your backpack. We're going to search it."

Transition:

This simulation was based on the events leading up to the Supreme Court case *New Jersey v. T.L.O.* Read the background and answer the accompanying questions. Next, make a prediction regarding the outcome of the case. Read the excerpt of the majority opinion and discuss the outcome as a class.

New Jersey v. T.L.O.

Questions to Consider:

1. What did you think about the event that just occurred? Was the student treated fairly?
2. The student claimed that security can't conduct a search without a warrant. Do you think this is true? Why or why not?
3. Do the rules that police must follow regarding searches apply to school officials? Should the same rules apply? Why or why not?

You Decide: Is This a Legal Search?

Directions:

1. Read each situation. Use the information in the excerpt of the majority opinion to help you complete the chart. For further assistance, visit "Ask Sybil Liberty about Your Right to Privacy" at <http://www.aclu.org/StudentsRights/StudentsRights.cfm?ID=9068&c=161>
2. Answer the question, "Is this a legal search?" by placing an "X" in the appropriate space.
3. Provide a brief explanation for your answer.

Situation	Is this a legal search?		Explanation
	Yes	No	
School administrators receive a report 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.			
Concerned over recent school shootings, the school board installs metal detectors in all local high schools and requires that all students walk through them in order to enter the building.			
After one second grader complains of having lost the \$5.00 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.			
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 suspicious students.			
Concerned about alcohol use at the school dance, school officials search the vehicles of all students who attend the prom.			
After receiving a report that a student has brought a gun to school, the principal and security guard bring the student to the office, frisk him, and ask to search his locker.			

New Jersey v. T.L.O.

For Extension:

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. In fact, the principal is able to manipulate the cameras to zoom in on individuals or groups of students.

Is this constitutional? Explain your answer below.

How Do Students' Rights Compare to Adults' Rights?

Background

In the landmark Supreme Court case *Tinker v. Des Moines*, Justice Fortas wrote, "It can hardly be argued that either students or teachers shed their constitutional rights to freedom of speech or expression at the schoolhouse gate . . ." This quotation is often used, but what does it mean? Do students have the same rights as adults?

If you think about it for a few minutes, you will realize that children don't have all of the same rights as adults. For instance, adults can drive cars, vote, and drink alcohol. Children can't do these things until they are 16, 18, and 21, depending on where they live. All of those rights involve situations outside of school. What about inside a school? In this activity, you'll examine some of the cases in which the Supreme Court of the United States has held that rights of students inside a school are not the same as rights of adults outside of school.

Directions:

1. The left-hand column contains a list of general rights. Read that list.
2. The column labeled "Adult Rights" lists the basic rights that adults have in each general area.
3. From the column labeled "Student Rights" read the abstract online. Note the rights that the Supreme Court of the United States accorded to students. Write these down.
4. Compare what you have written in the "Adult" column with what you have written in the "Student" column. In the final column, explain how adults' rights and students' rights differ in that particular area.

General Rights	Adult Rights	Student Rights	How Adults' Rights and Students' Rights Differ
Freedom of the press		<i>Hazelwood v. Kuhlmeier</i> http://www.oyez.org/oyez/resource/case/158/	
Freedom of speech		<i>Bethel v. Fraser</i> http://www.oyez.org/oyez/resource/case/36/	
Search and seizure		<i>New Jersey v. T.L.O.</i> http://www.oyez.org/oyez/resource/case/275/	
Drug testing		<i>Vernonia School District 47J v. Acton</i> http://www.oyez.org/oyez/resource/case/626/	
Due Process		<i>Goss v. Lopez</i> http://www.oyez.org/oyez/resource/case/146/	

Should the Exclusionary Rule Apply to Searches Conducted by School Officials in a School Setting?

Review:

What is the exclusionary rule?

Background:

In the 1961 case of *Mapp v. Ohio*, the Supreme Court of the United States determined that the exclusionary rule applied to the states as well as the federal government. The question then became, "Does the exclusionary rule apply to schools?"

The New Jersey Supreme Court addressed this issue in the 1983 case of *State In the Interest of T.L.O.* In that case, the Supreme Court of New Jersey ruled in favor of T.L.O., saying that her Fourth Amendment rights had been violated. Further, in its opinion, the New Jersey Court reasoned that the Supreme Court of the United States has made it quite clear that the exclusionary rule is equally applicable "whether the public official who illegally obtained the evidence was a municipal inspector, a firefighter, or school administrator or law enforcement official." The New Jersey Court concluded, "that if an official search violates constitutional rights, the evidence is not admissible in criminal proceedings."

When the State of New Jersey, which was unhappy with this decision, requested that the Supreme Court grant *certiorari* in this case, the question presented was whether the Fourth Amendment's exclusionary rule applies to searches made by public school officials and teachers in schools. In their oral arguments before the Court, the two sides debated this and other issues.

Input:

Your teacher will play excerpts of the Oral Arguments in *New Jersey v. T.L.O.* Listen to the arguments made by each side and record relevant details in the chart below.

(Note to teacher: You will need to have RealPlayer software installed on your computer. Once you have installed the software, when you click on the Web link, you will see the Real Player window. In the title bar, it will read: "Real Player: New Jersey v. T.L.O." The controls are located near the top of the screen. Click on the green arrow to play. Wait about 5 seconds for it to begin playing. Then, in the menu bar near the top, click on "Play." In the pull down menu that appears, click on "Seek to." This will enable you to type in the hour, minute, and second to which you would like to advance. After you have keyed in the desired numbers, click on the button labeled "Seek." Wait several seconds for the sound to play.)

New Jersey v. T.L.O.

Directions: As you listen to the excerpts of the tape, answer the following questions.

For the petitioner (the State of New Jersey) Allan Nodes

Clip #1 4:50 - 7:00

Why does Mr. Nodes bring up the issue of the exclusionary rule?

How does he feel about the "reasonableness" standard (for searches of students) established by the Supreme Court of New Jersey?

How does he feel about the use of the exclusionary rule in schools?

Clip #2 14:52-18:40; 20:15-22:50

If the exclusionary rule is NOT used, what will deter teachers from conducting illegal searches?

Nodes says that the "indiscriminate use of the exclusionary rule" could "nurture disrespect" for our criminal justice system. What does he mean by this?

For the Defendant (T. L. O.), Lois De Julio

Clip #3 27:40 - 28:30

In a criminal court, should a distinction be made between a school and an outside setting?

Clip #4 32:45- 35:45

How does she feel about the "reasonable ground" standard established by the Supreme Court of New Jersey? What standard does she believe should be used?

Should a warrant be required for searches by school officials in schools? Why or why not?

New Jersey v. T.L.O.

Clip #5 38:30-43:03

What does Ms. De Julio think about the use of the exclusionary rule for evidence gathered in schools? Explain her reasoning.

Should school officials be able to routinely search students as a matter of school discipline? Why or why not?

Clip #6 53:45- 57:30

Does the exclusionary rule deter teachers from illegal behavior? Explain.

What other reason does she give for applying the exclusionary rule to schools?

Questions to Consider:

1. Which side has the more persuasive arguments? Give your reasons.
2. Based on what you have heard, if you were a justice on the Supreme Court of the United States, how would you rule in this case? Why?
3. In its ruling the Court had to answer two questions. First, was the search legal, and second, if the search was illegal, does the exclusionary rule apply? Read the [excerpt of the majority opinion](#). How did the Court answer each of these two questions?

New Jersey v. T.L.O.

4. In a footnote to the majority opinion, Justice White writes,

"In holding that the search of T. L. O.'s purse did not violate the Fourth Amendment, we do not implicitly determine that the exclusionary rule applies to the fruits of unlawful searches conducted by school authorities. The question whether evidence should be excluded from a criminal proceeding involves two discrete inquiries: whether the evidence was seized in violation of the Fourth Amendment, and whether the exclusionary rule is the appropriate remedy for the violation. Neither question is logically antecedent to the other, for a negative answer to either question is sufficient to dispose of the case. Thus, our determination that the search at issue in this case did not violate the Fourth Amendment implies no particular resolution of the question of the applicability of the exclusionary rule."

Summarize that footnote in one sentence.

5. Based on what you have learned about this case and other cases involving students' rights, what do you think the Court will say about students and the exclusionary rule in the future?

**Real World Case Study:
Vernonia School District 47J v. Acton (1995)**

Introduction

Read the article about student James Acton. Answer the questions that follow.

DRUG TESTING FOR STUDENT ATHLETES

Veronia School District has one high school and three grade schools in the small logging community of Veronia, Oregon. In the mid-to-late 1980s school teachers and administrators observed a sharp increase in both drug use and disciplinary problems. School officials determined that student athletes were among the leaders of this “drug culture.” This caused special concern to the school, because student athletes in this town tended to be admired and served as role models and because school officials believed drug use could increase the risk of sports injuries.

The school district offered special courses and guest speakers, and even used drug-sniffing dogs in an attempt to solve its drug problem. However, the problem persisted. Frustrated by their lack of success, school officials sponsored a parents’ input night at which officials described a proposed drug testing policy. The parents in attendance were unanimous in their support of the policy. The schools decided to implement the policy.

The policy applied to all students participating in interscholastic athletics. Students and their parents had to consent in writing to the policy before the season began. Each athlete was to be tested at the start of the sports season. In addition, each week during the season 10 percent of the athletes were randomly selected

for testing. Student athletes also had to provide information on any prescription drugs they were taking, as these could have an effect on the tests.

Careful controls on the testing were spelled out in the policy. These included watching or listening as students provided urine samples, hand-checking the specimens for temperature, sending the specimens to a reputable laboratory for testing, providing a second test if the first test was positive, and limiting knowledge of the test results to senior administrators in the school system. If the second test was positive, then the school scheduled a meeting with the student and the student’s parents. The student could choose to participate in a six-week drug rehabilitation program (with weekly testing) or be suspended from sports for the current and the next season.

Seventh grader Jason Acton signed up to play football at one of the grade schools, but he and his parents refused to sign the consent form. He was not allowed to participate. Acton and his parents sued the school district for violation of his constitutional rights.

The U.S. District Court dismissed his case, but the federal court of appeals reversed the trial court’s decision. The school district appealed to the U.S. Supreme Court.

from Arbetman, Lee, & Edward O’Brien. *Street Law: A Course in Practical Law*, 6th Ed. West Educational Publishing: New York.

New Jersey v. T.L.O.

1. What is the constitutional issue?
2. What are Acton's arguments?
3. What arguments do you think the school would give?
4. What is the standard regarding student search and seizure that the Supreme Court of the United States adopted in *New Jersey v. T.L.O.*? Based on this standard, how do you think the Court will rule in *Vernonia School District 47J v. Acton*?

Find out how the Supreme Court of the United States ruled by reading the case abstract at Oyez (<http://www.oyez.org/oyez/resource/case/626/>), or by reading the full text of the decision at FindLaw (<http://caselaw.lp.findlaw.com/scripts/getcase.pl?court=us&vol=000&invol=U10263>)."

Questions to Consider:

1. What was the Court's ruling in *Vernonia School District 47J v. Acton*?
2. What rationale does the Court provide for its decision?
3. Do you agree or disagree with this decision? Explain.

For Further Thought:

1. Reaction to the idea of drug testing of student athletes has been mixed. On one hand, the National Drug Strategy Network reports on [Congress Proposes Drug Testing All High School Students](http://www.ndsn.org/summer99/test1.html). Read the report online at <http://www.ndsn.org/summer99/test1.html>. What legislation did Congress hope to pass? Do you think that the Supreme Court of the United States would ever allow this? Explain.
2. Next, visit the ACLU's site "Back to School—and a Test You Can't Study For (<http://www.aclu.org/DrugPolicy/DrugPolicy.cfm?ID=11000&c=79>)" Why do some families oppose drug testing? What are some of the steps they've taken to end drug testing? What have the consequences been?
3. On November 8, 2001, the Supreme Court of the United States granted review in a case from a small town in Oklahoma that asked the Court to expand its *Vernonia* ruling by saying that all public school students involved in extracurricular activities can be randomly tested for drug use. Given what you know about the Court's ruling in *Vernonia*, how do you think the Court ruled in this case, *Board of Education of Independent School District No. 92 of Pottawatomie County v. Earls, et., al?*
4. Find out how the Court ruled by visiting <http://www.oyez.com/oyez/resource/case/1493/>.
5. What rationale does the Court provide for its decision in *Earls*? Do you agree or disagree with this decision?

