

TEXAS SCHOOL FOR THE DEAF

**STUDENT RIGHTS AND RESPONSIBILITIES:
INTERROGATIONS AND SEARCHES**

FNF

INTERROGATIONS
BY SCHOOL
OFFICIALS

Administrators, teachers, and other professional personnel may question a student regarding the student's own conduct or the conduct of other students. In the context of school discipline, students have no claim to the right not to incriminate themselves.

BY POLICE OR
OTHER
AUTHORITIES

For provisions pertaining to student questioning by law enforcement officials or other lawful authorities, see GRA (LOCAL).

LOCKERS AND VEHICLES

Students have full responsibility for the security of their lockers, and for vehicles parked on school property. It is the student's responsibility to ensure that lockers and vehicles are locked and that the keys and combinations are not given to others. TSD requires that combinations or a key to locks placed on lockers, be provided to the appropriate school administrator. Students shall not place, keep, or maintain any article or material that is forbidden by School policy in lockers or in vehicles parked on school property.

School officials conduct routine blanket inspections and searches of lockers. Students shall be responsible for any prohibited items found in their lockers.

School officials may search vehicles parked on school property, if there is reasonable cause to believe that they contain articles or materials prohibited by School policy. Students shall be responsible for any prohibited items found in their vehicles parked on school property.

If a vehicle subject to search is locked, the student shall be asked to unlock the vehicle. If the student refuses, the School shall contact the student's parents. If the parents also refuse to permit a search of the vehicle, the School may turn the matter over to local law enforcement officials.

RANDOM DRUG TESTING

Whether a particular search is reasonable is judged by balancing its intrusion on the individual's Fourth Amendment interests against its promotion of legitimate governmental interests. Thus, the reasonableness of a random student drug-testing policy is determined by balancing the following factors:

1. The nature of the privacy interest compromised by the drug-testing policy.
2. The character of the intrusion imposed by the drug-testing policy.
3. The nature and immediacy of the governmental interests involved and the efficacy of the drug-testing policy for meeting them.

Vernonia Sch. Dist 47J v. Acton, 515 U.S. 646, 115 S.Ct. 2386 (1995) (upholding a policy requiring urinalysis drug testing as a condition of participating in athletics); Bd. Of Educ. of Indep. Sch. Dist. No. 92 of Pottawatomie County v. Earls, 122 S.Ct. 2559 (2002) (upholding a policy requirement urinalysis drug testing as a condition of participating in competitive extracurricular activities)

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SEARCHES OF
TELECOMMUNICA-
TIONS /
ELECTRONIC
DEVICES

A person is prohibited from obtaining, altering, or preventing authorized access to a wire or electronic communication while it is in electronic storage by:

1. Intentionally accessing without authorization a facility through which an electronic communication service is provided; or
2. Intentionally exceeding an authorization to access that facility.

EXCEPTIONS

This section does not apply with respect to conduct authorized:

1. By the person or entity providing a wire or electronic communications service;
2. By a user of that service with respect to a communication of or intended for that user; or
3. By sections 18 U.S.C. 2703, 2704, or 2518.

18 U.S.C. 2701(a), (c)

ELECTRONIC
COMMUNICATION

“Electronic communication” means any transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photoelectronic or photooptical system that affects interstate or foreign commerce. *18 U.S.C. 2510(12)*

ELECTRONIC
STORAGE

“Electronic storage” means:

1. Any temporary, intermediate storage of a wire or electronic communication incidental to the electronic transmission thereof; and
2. Any storage of such communication by an electronic communication service for purposes of backup protection of such communication.

18 U.S.C. 2510(17)

Messages that have been sent to a person, but not yet opened, are in temporary, intermediate storage and are considered to be in electronic storage. See *Steve Jackson Games, Inc. v. United States Secret Service*, 36 F.3d 457 (5th Cir. 1994). Electronic communications that are opened and stored separately from the provider are considered to be in post-transmission storage, not electronic storage. See *Fraser v. Nationwide Mut. Ins. Co.*, 352 F.3d 107 (3d Cir. 2004).

USE OF TRAINED DOGS

The School shall use specially trained nonaggressive dogs to sniff out and alert officials to the current presence of concealed prohibited items, illicit substances defined in FNCF (Legal), and alcohol. This program is

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implemented in response to drug and alcohol related problems in the School, with the objective of maintaining a safe school environment conducive to education.

Such visit to schools and residences shall be unannounced. The dogs shall be used to sniff vacant classrooms, vacant common areas, the areas around student lockers, and the areas around vehicles parked on school property. The dogs shall not be used with students. If a dog alerts to a locker, a vehicle, or an item in a classroom, it may be searched by school officials. Searches of vehicles shall be conducted as described above.

Trained dogs' sniffing of cars and lockers does not constitute a search under the Fourth Amendment. The alert of a trained dog to a locker or car provides reasonable cause for a search of the locker or car only if the dog is reasonably reliable in indicating that contraband is currently present.

Trained dogs' sniffing of students does constitute a search and requires individualized reasonable suspicion.

Horton v. Goose Creek ISD, 690 F.2d 470 (5th Cir. 1982)

NOTICE

At the beginning of the school year, the School shall inform students and parents of the School's policy on searches, as outlined above, and shall specifically notify students that:

1. Lockers may be sniffed by trained dogs at any time.
2. Vehicles parked on school property may be sniffed by trained dogs at any time.
3. Classrooms, residences and other common areas may be sniffed by trained dogs at any time when students are not present.

PARENT NOTIFICATION

The student's parent or guardian shall be notified if any prohibited articles or materials are found in a student's locker, in a student's vehicle parked on school property, or on the student's person, as a result of a search conducted in accordance with this policy.

**SEARCHES OF
STUDENTS**

Students shall be free from unreasonable searches and seizures by school officials. School officials may search a student's outer clothing, pockets, or property by establishing reasonable cause or securing the student's voluntary consent. Coercion, either expressed or implied, such as threatening to contact parents or police, invalidates apparent consent.

**U.S.C. Const., Amend. 4.; New Jersey v. T.L.O., 105 S.Ct. 733 (1985);
Jones v. Latexo ISD, 499 F. Supp. 223 (1980)**

A search is reasonable if it meets both of the following criteria:

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1. The action is justified at the inception, i.e., the school official has reasonable grounds for suspecting that the search will uncover evidence of a rule violation or a criminal violation.
2. The scope of the search is reasonably related to the circumstances that justified the search in the first place; i.e., the measures adopted are reasonably related to the objectives of the search and are not excessively intrusive in light of the age and sex of the student and the nature of the infraction.

New Jersey v. T.L.O., 105 S. Ct. 733 (1985)

SEARCHES OF PLACES

Areas such as lockers and desks, which are owned and controlled by the School, may be searched by school officials when they have reasonable cause to believe that stolen items or items prohibited by law or by Board policy are contained in the area to be searched. Indiscriminate searches in the nature of "fishing expeditions" are prohibited.

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