**Street Law I: Criminal Law Name\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
*New Jersey v. T.L.O* Case Study
Mr. Faulhaber**Directions: **Read and Highlight or Underline the background, majority and dissenting opinions, and then answer the subsequent questions

". . . 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

This case explores the**[**legal concept**](http://landmarkcases.smartsitecms.com/legal-concepts)**of search and seizure.**

A New Jersey high school student was accused of violating school rules by smoking in the restroom, leading an assistant principal to search her purse for cigarettes. The vice principal discovered marijuana and other items that implicated the student in dealing marijuana which was illegal. The student tried to have the evidence from her purse suppressed because the search was a violation of her Fourth Amendment rights. She contended that the 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. The Supreme Court decided that the search did **not** violate the Constitution and established more lenient standards for reasonableness in school searches.
 **The following are excerpts from Justice White’s majority opinion:**

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 necessaries 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 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.

**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 believe this standard is adequate to protect the rights of students against invasions of privacy or other abuses? Give your reasons.**

**The following are excerpts from Justice Brennan’s 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.

**6. In Justice Brennan’s dissent, what is his objection to the “reasonableness” standard used in the Court’s majority opinion?**

**7. What does Justice Brennan say will be the likely result of using the “reasonableness” standard?**

The following are excerpts from Justice Steven’s 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 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.

 **8. 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?**

**9. 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?**

**10. 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?**