

7. SEARCHES CONDUCTED PRIOR TO OR DURING SCHOOL FIELD TRIPS AND SCHOOL-SPONSORED EVENTS

During school field trips and other school-sponsored events, students remain subject to close supervision by school officials. School officials, in other words, continue to be responsible for the welfare and supervision of students at all school-sponsored functions that occur off-campus, without regard to whether those functions or activities take place during regular school operating hours. Accordingly, the same search and seizure rules apply whether the search is conducted on or off school grounds.

Thus, for example, a school official or agent of the school, such as a parent chaperon, must comply with the rules established in New Jersey v. T.L.O. before conducting a search based on reasonable grounds to believe that the search would reveal evidence of a crime or a violation of school rules. (Note, however, that if a parent chaperon at an off-site school function conducts a search of the parent's *own* child, there is no governmental intrusion and the Fourth Amendment does not apply, even if the parent chooses to turn over any contraband or information to school officials for use in a school disciplinary proceeding or a criminal prosecution. Minors enjoy no Fourth Amendment protections with respect to searches conducted by their own parents unless the search was done at the specific request of a police officer or school official.)

Similarly, all of the rules governing "suspicionless" searches apply prior to and during field trips. In Desilets v. Clearview Reg'l Bd. of Educ. 265 N.J. Super. 370, 379 (App. Div. 1993), the court considered whether the Fourth Amendment was violated by a school policy of searching students' hand luggage prior to a field trip. The school policy at issue was designed to discourage students from bringing alcohol, weapons, or drugs on a field trip. The search policy was limited to hand luggage, and school officials did not search students' persons or pockets.

The field trip in that case was voluntary and recreational, and transportation by bus was provided by the school board. Teachers accompanied the students and functioned as chaperons. The court in Desilets upheld the school search policy, concluding that the deterrent effect advanced the legitimate interests of the school in preventing students from taking contraband on field trips. The court was persuaded that the search was justified at its inception by the unique burdens placed on school personnel in the field trip context and that the search limited to hand luggage was reasonably related to the school's duty to provide discipline, supervision, and control.

In reaching this conclusion, the court was mindful of the "rich opportunity for mischief which the field trips provides to some students." Id. at 380. The need for close

supervision in the schoolhouse is intensified, the court held, on field trips where opportunities abound to allude the watchful eyes of chaperons. Administrators and teachers not only have the duty to protect students from the misbehavior of other students, the court noted, but in the context of a field trip, also have a duty to protect the general population from student mischief.

The court further recognized that a teacher confronted with a serious problem of misbehavior on school grounds is able to draw upon substantial resources to deal with the problem, such as other teachers and administrators or a school nurse. Teachers in schoolhouses also have quick access to police and ambulance services, if necessary. Chaperons on a field trip, in contrast, are relatively isolated.

The court was also persuaded by the fact that pursuant to the school policy, students were not subject to abusive exercise of discretion, since all students participating in the field trip were required to submit to the search of their hand luggage. Consequently, there was no stigma attached to the search because no individual student or group of students was being singled-out. *Id.* at 382. Finally, because the trip was off school premises, school administrators required parental permission, and the permission slip contained a statement noting that hand luggage would be searched. By providing advance notice, students had ample opportunity to eliminate from the hand luggage items that, though not contraband, might have been embarrassing if revealed.

Since school officials are permitted in these circumstances to open and visually inspect the contents of luggage that is to be brought on class trips, they would also be permitted to use scent dogs to sniff the luggage for drugs. Indeed, it is generally accepted that a canine sniff of the exterior surface or air surrounding a closed, opaque container represents far less of an intrusion on legitimate privacy rights than occurs when a closed container is actually opened and its contents are exposed to visual scrutiny or rummaging. (See generally Chapter 4.5 for a more detailed discussion of the use of drug-detection canines.)

Finally, it should be noted that, especially in view of the *Desilets* opinion, school officials would also be authorized to inspect students' belongings before admitting students to on- or off-campus after-hours events such as dances, proms, concerts, sporting events, or other extracurricular functions. Such inspections — a form of point-of-entry search — are especially appropriate to discourage teens from bringing drugs or alcohol to these events. (See also Chapter 4.7 for a discussion of point-of-entry inspections.) Although the “implied consent” doctrine is usually of little help in resolving Fourth Amendment issues (see Chapter 2.4), in this particular context, students seeking admission to these kinds of extracurricular events would be especially hard pressed to

complain about such inspections, provided that advance notice is given and further provided that the inspections follow a neutral plan and are not used to harass, intimidate, or discourage the attendance of particular students or groups of students.