



CITIZEN ADVOCACY CENTER

The Fourth Amendment

LESSON PLAN AND ACTIVITIES

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The Fourth Amendment: Protection from Unreasonable Search and Seizure Lesson Plan and Activities

Grade Level: 9, 10, 11, 12

Subject(s):

- Social Studies: Government; and
- Language Arts: Reading, Writing.

Duration: 1-2 class sessions

Description: This lesson explores the meaning and application of the Fourth Amendment to the U.S. Constitution, utilizing the Supreme Court case *New Jersey v. T.L.O.*

Goals:

Illinois Learning Standards

A. Social Science: 14A; and

B. English/Language Arts: 1A; 3B; 4A, 4B.

Objectives:

1. Voice perceptions as to the meaning of the Fourth Amendment.
2. Brainstorm the meaning of the vocabulary contained in the Fourth Amendment and understand terms such as “unreasonable,” “search,” “seizure,” and “probable cause.”
3. Analyze a case study, debating both sides of a legal issue and applying their understanding of the Fourth Amendment to the facts of a case.
4. Compare how different people react to situations.

Materials:

1. Notebook paper/pen
2. Blank overhead or chalkboard
3. Copies of Fourth Amendment Handout (one per student)
4. Copies of TLO Case Study and Analysis (one per student)

Instruction and Activities

Prior to the class activity, write the following statement on the blackboard, and ask students to write their responses in a journal:

What does it mean that the government shall not perform an unreasonable search and seizure?

As a class, read and discuss the Fourth Amendment (either write it out on the blackboard or pass out the attached handout), focusing on the following questions:

1. What is meant by the various terms?
 - a. Unreasonable - not fair, proper, or just; not appropriate under the circumstances

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- b. Search - looking for something not otherwise in view in order to find something
 - c. Seizure - forcible taking possession of property (personal or otherwise)
 - d. Probable cause - reasonable cause; having more evidence for than against, as in a balancing test; if, in looking at all the evidence available, a reasonable person would agree that an action was warranted
2. Who is protected by the Fourth Amendment?
 - A. Every resident of the United States, whether a citizen or not
 3. Does the Fourth Amendment apply to **all** searches and seizures?
 - A. No, because an action by the state or by an agent of the state is needed. For example, the actions of a principal of a private school would not be governed by the Fourth Amendment, whereas those of a public school principal, considered an agent of the state, would be governed by the Fourth Amendment.

Break down the Fourth Amendment language (see attached Handout).

Case Study: TLO

- Review the facts (see below).
- Divide the students into small groups. Assign half of the groups to represent the views of the school officials; the other half will represent the views of the student.
- Each student should read the case study individually.
- Explain to the students that they should use the Fourth Amendment, not their personal viewpoint, to decide whether the search of the student's handbag was reasonable.
- Instruct each small group to brainstorm the following questions. One student from each group should record the main discussion points.
 1. What right is at issue in the case study?
 2. Do students have a right to protection against unreasonable search and seizure while at school?
 3. Does the answer to the previous question depend on whether the student attends a public or private school? Why or why not?
 4. Would the situation have been different if the teacher had not seen the student smoking, but rather just thought she was a "bad kid" who probably smoked?
 5. Would your opinion change if the student were seen smoking off-campus only?
 6. For groups representing the student: On what grounds would you argue that the search was unlawful?
 7. For groups representing school officials: On what grounds would you argue that the search was lawful?
 8. Do you think there is a difference between the search of a student's purse and the search of a student's locker? Why or why not?

After about twenty minutes of discussion time, pair groups up, one group representing the student and one group representing school officials, and have the two groups discuss their responses with each other.

Optional: Have a community lawyer or a school administrator visit the class to discuss the case.

TLO Case Study

A teacher at a New Jersey high school discovered a 14-year-old freshman smoking cigarettes in a school lavatory in violation of a school rule and took her to the Principal's office. The student denied to the Principal that she had been smoking and the Principal demanded to see her purse. Upon opening the purse, the Principal found a pack of cigarettes and also noticed a package of cigarette rolling papers that are commonly associated with the use of marijuana. He proceeded to search the purse thoroughly, finding some marijuana, a pipe, plastic bags, a substantial amount of money, an index card listing students who owed the student money, and two letters that implicated the student in dealing marijuana. Thereafter, the State brought delinquency charges against the student respondent in Juvenile Court.

Additional Discussion Questions:

- What rights are at issue here?
- Do students maintain these rights in school?
- Are school officials extensions or agents of the State?
- What arguments would school officials use in favor of the search? What are the school's interests in conducting this search?
- What arguments would the student use against the search? What are the student's interests in preventing the search?
- Would the situation have been different if the teacher had not seen the student smoking, but just thought that she was a 'bad kid' who probably smoked?
- Would your opinion change if the student had been seen smoking off campus?
- How would you decide this case? Should the evidence in the student's purse be suppressed? The cigarettes? The marijuana paraphernalia?
- Is there a difference between the search of a student's purse and the search of a student's locker?

Analysis - New Jersey v. T.L.O. 469 U.S. 325 (1985)

Rights invoked: Freedom from unreasonable searches and seizures.

Holdings:

Schoolchildren have legitimate expectations of privacy while at school. The Fourth Amendment protects students against unreasonable actions of the state all of its arms, including the Board of Education. The Board of Education must act within the Constitution and the Bill of Rights. In determining the validity of a search, the court must weigh the privacy rights of the student against the interests of the school in maintaining discipline and promoting education. A warrant is not needed in schools because school officials are viewed as students' guardians while they are in school. School officials do not have to meet as high a standard for searches as police, who must have probable cause for a search warrant (a much higher standard than reasonableness); however, a search must be reasonable, a much lower standard.

A search is permissible if 1) the measures taken to search are reasonably related to the objectives of the search; and 2) the search is not excessively intrusive in light of the student's age, sex and nature of infraction. For example, a strip-search or cavity search by a school official for cigarettes would NOT be reasonable in this circumstance.

In this case, the Court held that the search was reasonable for Fourth Amendment purposes. First, the initial search for cigarettes was reasonable. The report to the Principal that the student had been smoking warranted a reasonable suspicion that she had cigarettes in her purse, and thus the search was justified. The discovery of the rolling papers then gave rise to a reasonable suspicion that respondent was carrying marijuana as well as cigarettes in her purse, and this suspicion justified the further exploration that turned up more evidence of drug-related activities.

THE FOURTH AMENDMENT

“The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.”

In a nutshell:

- A prohibition on unreasonable searches and seizures
- Implied privacy right
- Rights to privacy are also found in the First, Third, Fifth, and Ninth Amendments

When are searches allowed?

- Even a limited search is an invasion of privacy
- Privacy rights must be weighed against government interests in performing a search
- Searches must be reasonable and the manner of the search must be reasonably related to the objectives of it
- Searches cannot be excessively intrusive in light of the subject’s age, sex, and nature of the infraction.