



## Frequently Asked Questions (FAQs) on the Fourth Amendment By Wendy Bay Lewis

### **Q. Does the Fourth Amendment prevent businesses and neighbors from invading an individual's privacy?**

A. No. Although other privacy laws enacted by Congress and state legislatures may place some limits on what private corporations and individuals can do, the Fourth Amendment itself applies only to governmental searches and seizures.

For example, there are many state and federal laws that protect some aspects of an individual's right to privacy in his or her medical records. To learn more about these laws, visit the Coalition for Patient Rights [<http://www.nationalcpr.org/>] and the Health Privacy Project [<http://www.healthprivacy.org/>].

### **Q. Does the Fourth Amendment protect an individual's privacy in the workplace?**

A. No. Unless an employer promises otherwise, employees should assume that the employer is regularly reviewing incoming and outgoing phone calls (including voice mail), copying and reviewing every e-mail sent or received, tracing every Web site visited, and viewing every document created on the company's computers. Employers are not required to notify employees about this surveillance.

To learn more about individuals' rights in the workplace, visit the Privacy Rights Clearinghouse [<http://www.privacyrights.org/index.htm>].

### **Q. Can students be searched by their teachers?**

A. Yes. The Fourth Amendment applies to searches conducted by teachers as well as police officers. Therefore, if a teacher conducts a search, s/he must have a strong reason to believe there is evidence the student violated a school rule or broke the law.

### **Q. Can students be searched at school by police officers?**

A. Yes. Under the Fourth Amendment, however, police generally are required to obtain a warrant showing that there is probable cause to believe that the student committed a crime. There are special circumstances when a warrant is not required, for example, if the officer believes the student has a firearm.

### **Q. Can evidence obtained in school searches be used in a criminal case against a student?**

A. Yes, provided the evidence was obtained legally. If a teacher or police officer obtains evidence in violation of the Fourth Amendment, the evidence is inadmissible in court. For



example, a teacher cannot conduct a strip search (requiring the student to undress) when a pat-down search would be sufficient to look for a weapon. Any evidence obtained during the strip search would therefore be inadmissible in court.

**Q. Can schools require students to submit to urine tests for illegal drugs?**

A. Sometimes. The Supreme Court has upheld drug testing of student athletes on the basis that they are school leaders whom other students emulate, and that they relinquish some of their right to privacy when they participate in team sports. However, schools cannot require random testing of all students.

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