

THE NEW JERSEY SCHOOL SEARCH POLICY MANUAL



Christine Todd Whitman
Governor

Peter Verniero
Attorney General

Leo F. Klagholz
Commissioner of Education

1998

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“The first right of the individual is to be protected from attack. That is why we have government, as the preamble to the Federal Constitution plainly says.”

*Chief Justice Joseph Weintraub
State v. Bisaccia, 58 N.J. 586, 590 (1971)*

“Every school in New Jersey will be free of drugs and violence and offer a safe, disciplined environment conducive to learning.”

*Goal established by the State Board
of Education, N.J.A.C. 6:8-2.1*

“The government is charged with protecting the privacy and security of the citizen, just as it is charged with apprehending those who violate criminal laws.”

*Associate Justice William J. Brennan, Jr.
New Jersey v. T.L.O., 496 U.S. 325, 364,
n.5, 105 S.Ct. 733, 754 n.5
(Brennan, J., dissenting in part and
concurring in part)*

This Policy Manual is dedicated to the memory of William J. Brennan, Jr., who served for many years as a member of the New Jersey and United States Supreme Courts. Justice Brennan was a tireless and eloquent advocate of individual rights, and spoke on many occasions of a school teacher's task to imbue students with an understanding of our system of constitutional democracy.

- This Manual is intended for use by school administrators and teachers, local police departments, sheriffs, the State Police, and county prosecutors' offices. It is designed to enhance the knowledge of school officials and law enforcement officers in New Jersey. This Manual does not create any rights beyond those established under the Constitutions, statutes, and regulations of the United States and the State of New Jersey, and shall not be construed to preclude the Attorney General or a county prosecutor from making any argument in the course of litigation.*



STATE OF NEW JERSEY
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CHRISTINE TODD WHITMAN
GOVERNOR

Dear Fellow New Jerseyan:

As part of my Administration's Drug Enforcement, Education and Awareness Program, I asked Attorney General Peter Verniero to develop a manual that would explain how and under what circumstances educators and law enforcement officers could conduct lawful searches to ensure that our schools remain free of weapons and drugs. I firmly believe that one of the best ways to protect children is to make clear that school officials will be vigilant and will take appropriate, prompt, and lawful action where there is reason to believe that dangerous weapons or illicit drugs are present in a school.

This Manual can serve as an important reference tool, explaining the steps that educators and law enforcement professionals are authorized to pursue as part of our concerted effort to make every school in New Jersey a safe haven for our children. It is our responsibility to do everything that we can to provide children with an educational environment that is conducive to learning and free of the disruptive influence of weapons, violence, and illicit drugs.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Christine Whitman".

Christine Todd Whitman
Governor



State of New Jersey

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CHRISTINE TODD WHITMAN
Governor

PETER VERNIERO
Attorney General

Dear Friend:

As Attorney General and as a parent, I know that there can be no more urgent priority than to protect our children from harm and to provide them with a safe educational environment where they can learn, work, and play without fear of violence. Recent tragic events in other states teach us that we must be prepared to use all lawful means to keep firearms, other deadly weapons, and illicit drugs out of our schools and away from children.

In 1985, the United States Supreme Court decided a landmark case known as New Jersey v. T.L.O. In that case, the nation's highest court upheld the constitutionality of a search of a student's purse that had been conducted by the assistant vice-principal of the Piscataway High School in Middlesex County. This seminal case stands for the proposition that while school officials must know and comply with the requirements of the Fourth Amendment, they are authorized to conduct reasonable searches to maintain order and discipline.

Since T.L.O. was decided, a myriad of questions have been raised concerning the lawfulness of various investigation techniques that are designed to keep our schools safe and drug-free, including the use of random locker inspections, metal detectors, and drug-detection canines. When Governor Christine Todd Whitman announced her Drug Enforcement, Education and Awareness Program, she called upon me to publish a comprehensive manual to assist schools in conducting lawful searches. I am convinced that education and law enforcement professionals can achieve safe and drug-free schools for the benefit of our children and, at the same time, respect the rights guaranteed to all citizens, including schoolchildren, by our State and Federal Constitutions.

I thank the Governor for her support of our efforts and also appreciate the work of my staff, particularly Assistant Attorney General Ron Susswein, for making this Manual possible.

Sincerely yours,

Peter Verniero
Attorney General





State of New Jersey

DEPARTMENT OF EDUCATION
CN 500
TRENTON NJ 08625-0500

CHRISTINE TODD WHITMAN
Governor

LEO KLAGHOLZ
Commissioner

Dear Colleagues:

Since 1994, when the State Board of Education adopted a resolution supporting implementation of the Department of Education's Safe Schools Initiative, we embarked on various activities designed to assure that our students are safe from violence, permitting schools to provide a thorough and efficient education for all students.

Although, the department's 1995-1996 "Report on Violence, Vandalism, and Substance Abuse in NJ Schools" indicates a reduction in incidents of violence and vandalism, we cannot diminish our efforts. As the Governor outlined in her Drug Enforcement, Education, and Awareness Program, we must continue to work together to develop coordinated responses to evolving issues.

One collaborative effort has been the development of this School Search Policy Manual, in cooperation with the Attorney General's Education and Law Enforcement Working Group. I applaud the Attorney General for the effort and resources expended on the development of this document, which provides necessary guidance and direction to law enforcement and education professionals, who deal with the legal issues surrounding student searches. Together we can work towards providing safe and drug free schools for our students in New Jersey.

Sincerely,

A handwritten signature in black ink, appearing to read "Leo Klagholz".

Leo Klagholz
Commissioner