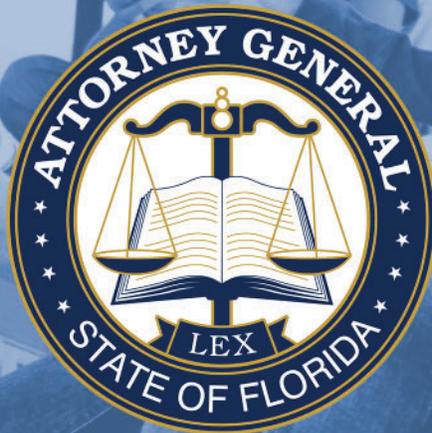


# Florida School Search Reference Guide





## Florida School Search Reference Guide

**DISCLAIMER:** This document is not intended to serve as exhaustive research, legal interpretation, or a complete reference of the Florida Statutes and cases covered. This is only an overview to be referenced by School Resource Officers and they should look to their own agencies for specific guidance.



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### STUDENT SEARCHES BY SCHOOL OFFICIALS

The Fourth Amendment to the U.S. Constitution prohibits *unreasonable* searches and seizures. This prohibition applies to searches conducted by public school officials.<sup>1</sup> However, given the unique nature of the public school environment, and the need to balance a student's protected expectation of privacy against the school's need to maintain a suitable environment for education, courts have eased the restrictions to which searches by public authorities are ordinarily subject.<sup>2</sup> For instance, school officials need not obtain a warrant before searching a student who is under their authority.<sup>3</sup> Additionally, rather than requiring probable cause, the legality of a search of a student depends simply on the reasonableness, under all the circumstances, of the search.<sup>4</sup> Florida courts have consistently held that a search of a student requires a school official to have *reasonable grounds* or *reasonable suspicion* to suspect that the search will result in evidence that the student has violated the law or school rules.<sup>5</sup>

### DEFINING REASONABLENESS: TWO PART TEST

For reasonable suspicion to exist, the search must be *justified at its inception*, and the search must be *reasonably related in scope* to the reason for the search.<sup>6</sup> When student safety is an issue, the reasonableness of a search should weigh heavily in favor of the school official.<sup>7</sup>

### JUSTIFIED AT ITS INCEPTION

Ordinarily, a search of a student by a school official is 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 school rules.<sup>8</sup> Specific and articulable facts must exist, which, when taken together with the rational inferences from those facts, reasonably warrant the intrusion.<sup>9</sup> A gut feeling or hunch that something is wrong will not constitute a reasonable suspicion to justify a search.<sup>10</sup>

To determine whether a search is justified at its inception, a court will look at various factors, including but not limited to:

- 1) The child's age, history, and record in school;
- 2) The prevalence and seriousness of the problem in the school to which the search was directed;
- 3) The exigencies in making a search without delay and further investigation;
- 4) The probative value and reliability of the information used as a justification for the search;
- 5) The particular teacher or school official's experience with the student; and
- 6) The experience of the involved school officials with the type of problem to which the search was directed.<sup>11</sup>

These factors attempt to balance the child's interest in privacy with the school's interest in maintaining discipline and ensuring the safety of other students.<sup>12</sup> Sometimes one factor by

itself is sufficient to create a reasonable suspicion to justify a search. For example, reasonable suspicion may arise when an odor of marijuana is detected on a specific student<sup>13</sup> or a student informant provides a tip that another student possesses contraband.<sup>14</sup>

### **The following are examples of reasonable grounds for a search:**

The following amounted to a reasonable suspicion to search: a baggie of marijuana was located on the ground close to the “suspect” student; another student stated that he thought the marijuana had fallen out of the “suspect” student’s pocket; it was known the “suspect” student associated with persons who smoked marijuana; and a note was found indicating the “suspect” student planned to smoke the marijuana.<sup>15</sup>

### **The following are examples of non-reasonable grounds for a search:**

- | Noticing the student had bloodshot eyes and was “not acting himself” did not amount to reasonable suspicion to permit a school counselor to request the student to empty his pockets revealing marijuana.<sup>16</sup>
- | Not being able to understand the student, the student “not acting right,” and the school official believing the student is “possibly on something,” did not amount to reasonable grounds to request the student to empty his pockets and then open his wallet revealing marijuana.<sup>17</sup>
- | Middle school student’s passing out in the bathroom and appearing subdued and a “little pale” was insufficient to provide reasonable suspicion to believe that he was involved in illegal activity or violating school rules, so as to justify search of student’s person and belongings.<sup>18</sup>
- | Going behind the cafeteria (off limits but not so posted), acting surprised when caught, exchanging “something” and possessing an unlit cigarette are not grounds for a search.<sup>19</sup>
- | Upon coming in contact with an administrator, being startled, and hiding a purse are not grounds for a search.<sup>20</sup>

## **REASONABLY RELATED IN SCOPE**

A search of a student by a school official 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.<sup>21</sup>

### **Example**

When a school official has a reasonable suspicion that a student’s purse contains a weapon, the search of her purse must stop as soon as it is apparent that it does not contain a weapon. The *reasonable scope* of the search can go no further than the parts of the purse big enough to contain an object as large as a weapon. Extending the search into a small zippered pocket inside the purse, and removing a small plastic bag containing illegal drugs, is an improper “scavenger hunt” that exceeds the *reasonable scope* of the search.<sup>22</sup>

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### What is a “search?”

The following are examples of searches:

- | **Examining private items or places** that are not in the open and exposed to public view.
- | **Physically examining or patting down a student’s body or clothing**, including the student’s pockets.
- | **Opening and inspecting personal possessions** such as purses, backpacks, bags, books, notes, calendars, appointment books, and closed containers.
- | **Handling or feeling any closed, opaque item** to determine its contents when they cannot be inferred by the item’s shape or other publicly exposed physical properties.
- | **Using extraordinary means** to enhance viewing or hearing into *closed or locked areas*, containers or possessions (e.g., using a fiber optic cable and viewer to peer inside a closed locker).

### What is *not* a “search?”

The following are not searches:

- | **Observing an object in plain view** where it is exposed to the public.
- | **Examining an object after a student denies ownership** of the object.
- | **Examining an object abandoned** by a student.
- | **Detecting anything openly exposed to the senses** of sight, smell or hearing, as long as school officials are in a place where they have a right to be, and they do not use extraordinary means to gain a vantage point (e.g., a male teacher seeing and smelling marijuana smoke in the boys’ restroom).
- | **Using extraordinary means** to enhance sensory perceptions in *open areas* (e.g., using flashlights, binoculars, dogs, thermal imaging, etc., are not searches).

## STUDENT SEARCHES BY LAW ENFORCEMENT OFFICERS

The *reasonable suspicion* standard is a less restrictive standard than what would normally apply to searches.<sup>23</sup> As noted above, courts have uniformly held that this lesser constitutional standard is the correct standard to apply when examining searches conducted by school officials while on public school property.<sup>24</sup> Courts have also extended the lesser reasonable suspicion standard to cases involving student searches conducted by school safety and resource officers, even though they are sworn law enforcement officers.<sup>25</sup> However, if a search is initiated by an outside police officer, rather than a school resource officer, or by school officials acting at the behest of an outside law enforcement agency, then the traditional *probable cause* standard must be satisfied.<sup>26</sup>

### Example:

An outside police investigator receives information of a crime committed by a student. After locating the student on school property, the investigator has the school resource officer escort the student into her office where the school resource officer asks the student if he has anything he needs to turn over. The student produces evidence of the crime. The lesser *reasonable suspicion* standard would not apply because the school resource officer acted at the behest of the investigator.<sup>27</sup>

Based on the above, when a law enforcement officer is summoned to a school to assist school officials in an investigation, and a student search is warranted based on the school official's reasonable suspicion, it is recommended that the school officials, not the officer, initiate and conduct the search. The officer should stand by as a *non-participant* until the search is completed.<sup>28</sup>

### Examples of Probable Cause

- | More than mere reasonable suspicion
- | Whatever is "Probable Cause" out of school
- | Reports from multiple students that there is a violation of law or school rules

### When can a non-school affiliated law enforcement officer search with less than probable cause?

- | When the search is consensual
- | When the search is based on plain view or open view
- | Dog sniff at school but not a search
- | When the search is incidental to arrest and/or inventory
- | When the search is for weapons

## STUDENT LOCKER SEARCHES

By statute, student locker searches are subject to the same *reasonable suspicion* standard as other student searches on school property.<sup>29</sup> A school principal or a school employee designated by the principal, who has reasonable suspicion that a prohibited or illegally possessed substance or object is contained within a student's locker or other storage area may search the locker or storage area.<sup>30</sup>

"The district school board shall require and each school principal shall cause to be posted in each public K-12 school, in a place readily seen by students, a notice stating that a student's locker or other storage area is subject to search, upon reasonable suspicion, for prohibited or illegally possessed substances or objects."<sup>31</sup>

### Example:

A student was found in the faculty parking lot, smelling of marijuana, 20 minutes after school started, and acknowledged having smoked marijuana that morning. Under these circumstances, it was reasonable for school officials to suspect that the student might have marijuana either on

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his person or in his locker. The fact that the search produced a knife instead of marijuana is not pertinent to the determination of whether the officials' suspicion was reasonable.<sup>32</sup>

### PERSONAL BELONGINGS

Per Section 1006.09 (10), F.S, any search of a student's personal belongings, including a purse, backpack, or bookbag, must be conducted discreetly to maintain the privacy of the student's personal items within such belongings. Personal items that are not prohibited on school grounds must be immediately returned to the student's personal belongings.

### ANONYMOUS TIPS

Case law describes that there are three levels of police informants: anonymous tips; citizen informants; and registered confidential informants. It is well established that law enforcement officers must have a great deal of corroboration to act on an anonymous tip, but when the source can be identified by the officer, the law permits the officer to act upon such information without the need of corroboration.<sup>33</sup> By identifying a "source" (known to the officer but who merely wants to remain anonymous), the officer is honoring the witness' desire to avoid having his/her name used, but is still able to act upon the information, without the corroboration that is necessary when the source is truly anonymous/unknown. That is why it is recommended in those circumstances, the officer list the "known source" as "an individual/student/etc..., who wishes to remain anonymous." This does not mean that ultimately, the officer will not be required to disclose the "source," but because the source is known to the officer, the information can be considered, and it may establish reasonable suspicion/probable cause, depending on the nature of the information.

### ADMINISTRATIVE SEARCHES

An *administrative search* is a suspicionless search and is proper when conducted as part of a scheme whose purpose is something other than gathering evidence for criminal prosecution.<sup>34</sup> Because the object of the search is to deter, rather than to penalize, administrative searches are authorized without the same constitutional safeguards normally required.<sup>35</sup>

To be valid, there must be a neutral plan for execution of the search, a compelling government need, the absence of less restrictive alternatives, and reduced privacy rights in the individuals being searched.<sup>36</sup>

#### Example

An administrative search was upheld as reasonable, when an "alternative" school had a policy of conducting daily suspicionless, pat-down searches of every student, every morning, before being permitted to enter their classrooms.<sup>37</sup>

## USE OF METAL DETECTORS

The use of metal detectors to conduct random searches of students for weapons has been upheld in Florida.<sup>38</sup> In determining whether a particular use of a metal detector is constitutional, the court will balance the student’s privacy interest, the nature of the search, and the severity of the need met by the search.<sup>39</sup>

### Example

The use of metal detectors was found to be reasonable when a school district, which had an increase in both violent crime and the number of confiscated weapons at its schools over the past year, developed a *minimally intrusive and random* search procedure, and posted notices letting the students know they may be searched.<sup>40</sup>

## DRUG TESTING STUDENTS

Drug tests, such as urinalysis, are considered to be searches under the Fourth Amendment.<sup>41</sup> Therefore, if a school official wants to drug test a particular student, *reasonable suspicion* must exist.<sup>42</sup> However, courts have also permitted a school policy that requires random urinalysis drug testing of students who wish to participate in extracurricular athletic activities, as long as the policy as executed, meets the *reasonableness* standard.<sup>43</sup>

## USE OF DRUG-SNIFFING DOGS

A “canine sniff ” of a person or object is not a search for constitutional purposes.<sup>44</sup> A trained drug-sniffing dog may be walked around school lockers, school grounds or vehicles in a school parking lot without violating any student’s constitutional rights- provided that students themselves are not being detained (without *reasonable suspicion*) while the dog is sniffing. For example, walking a drug-sniffing dog around a student’s car in a school parking lot while the student is in class is permissible; however, detaining that same student in the school parking lot, without *reasonable suspicion*, while a drug-sniffing dog walks around the student’s car is not permissible. The detention of the student without *reasonable suspicion* — even briefly — raises constitutional issues, if the detention is for the purpose of facilitating a “canine sniff ” or actual search.

Generally, an alert by a trained drug-sniffing dog that drugs are present in a particular location provides school officials and law enforcement officers alike with *probable cause* to conduct a search of the person or place to which the dog alerted.<sup>45</sup> As a general rule, a school official or any law enforcement officer may conduct a reasonable search of a student or a student’s property, including a motor vehicle, on school grounds based upon an alert by a trained drug-sniffing dog without first obtaining a search warrant.<sup>46</sup>

### STRIP SEARCHES OF STUDENTS

As noted above, ordinary searches of students by school officials will be permissible under the reasonable suspicion standard as long as the measures adopted are reasonably related to the objectives of the search and are not excessively intrusive in light of the age and sex of the student and the nature of the infraction.<sup>47</sup> Because of the highly intrusive, personal, and embarrassing nature of a strip search, they are generally found to be unconstitutional unless specific facts indicate that the contraband is being concealed under the clothes.<sup>48</sup>

It is important to note Florida law prohibits strip searches of persons arrested for most minor offenses, and when permitted, expressly requires law enforcement officers to obtain written authorization from a supervisor prior to conducting a strip search.<sup>49</sup>

### OBTAINING A STUDENT'S CONSENT TO SEARCH

A properly conducted search, pursuant to consent by a student, is constitutionally permissible.<sup>50</sup> The Fourth and Fourteenth Amendments require the "consent not be coerced, by explicit or implicit means, by implied threat or covert force."<sup>51</sup> The fact a student is in custody does not, without more, demonstrate a coerced consent to search.<sup>52</sup> Additionally, a student's lack of knowledge of his or her right to refuse does not, in and of itself, render the consent involuntary.<sup>53</sup> Whether or not an individual student's consent was voluntary or coerced will depend on the totality of the circumstances in which it was obtained.<sup>54</sup> To document a student's consent to a search, see the attached *Sample Consent to Search Form*.

#### Example

"Consent" was not considered voluntary, when a freshman student who had been at the school for less than two weeks, testified he did not feel he could refuse to empty his pockets when confronted by the assistant principal and the school resource officer.<sup>55</sup> The court reasoned that the totality of the circumstances did not show the student's consent was voluntary.<sup>56</sup>

### QUESTIONING VS. SEARCHING

It is important to note that this memorandum discusses the standards for an actual student search versus a brief investigatory detention. When a school official or school officer simply wants to pull a student aside or out of class for questioning, the courts have stated that an unsubstantiated (or even anonymous) tip will suffice as the basis.<sup>57</sup> If during the questioning, the "suspect" student voluntarily or accidentally produces contraband, no constitutional violation has occurred.<sup>58</sup>

**SAMPLE CONSENT TO SEARCH FORM**

Student's Name (Last Name, First Name, Middle Initial)			Date of Birth
Street Address	City	State	Zip Code
		Florida	
<p>I, _____, voluntarily consent to a search by  <small>(Student's name)</small></p> <p>_____ of _____  <small>(Name of school official or school safety/resource officer)      (describe item or place to be searched)</small></p> <p>I authorize the person conducting the search <b>to take and keep any item that</b> _____  is evidence of a crime or is evidence of a violation of a school rule. <small>(Student's initials)</small></p> <p>I understand that <b>I have the right to withhold my consent</b> to this search. _____  <small>(Student's initials)</small></p> <p>I give my voluntary consent to this search of my own free will and <b>not due to</b> _____  <b>fear or intimidation by any school official, the school safety/resource</b> <small>(Student's initials)</small>  <b>officer, or by any other person.</b></p> <p><b>No promises of any kind have been made to me</b> in exchange for my _____  voluntary consent to this search. <small>(Student's initials)</small></p>			
_____ <small>(School official or school safety/resource officer's name and title)</small>		_____ <small>(School official or school safety/resource officer's signature)</small>	
_____ <small>(Date)</small>			
_____ <small>(Student's name)</small>		_____ <small>(Student's signature)</small>	
_____ <small>(Witness' name)</small>		_____ <small>(Witness' signature)</small>	

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**SAMPLE STUDENT SEARCH REPORT FORM**

Name of Student (Last, First, Middle)		Age	Grade	Gender (Circle) M      F	
Name of School Official (Last, First, Middle)			Business Phone Number		
Street Address		City		State Florida	Zip Code
Location of Search		Time of Search		Item(s) Searched	
Was the student asked to consent? (Circle) Yes                  No			If so, did the student consent? (Circle) Yes                  No		
Justification for Search: _____ _____ _____ _____					
Student is suspected of possessing: (Specify)  					
Description of search procedure: _____ _____ _____ _____					
Relevant Item(s) Found: (Specify)			Location:		
*If more than one student is involved in the search, it is recommended that you complete a separate search report form for each student.					

**SAMPLE STUDENT SEARCH REPORT FORM  
(continued)**

Information forming the basis for the search provided by: (Circle) School Staff Member      Student      Parent      Other: _____	
Information provided: _____ _____ _____ _____	
Was the information provided by a person involved in the crime or violation? (Circle) Yes      No	
(Check all applicable boxes) <input type="checkbox"/> Was the information provided from a reliable source? <input type="checkbox"/> Has the informant provided reliable information in the past? <input type="checkbox"/> Did the informant make a statement against his/her own interest? <input type="checkbox"/> Did the informant have a motive to lie, exaggerate, or minimize his or her involvement by falsely accusing another? Explain: _____ _____ _____ _____	
Did the informant provide information in exchange for leniency? Explain: _____ _____ _____ _____	
Was the informant's information credible? Explain: _____ _____ _____ _____	
Was the informant's information corroborated before the search? (Circle) Yes      No	How? _____ _____ _____

### SAMPLE CHECKLIST FOR SEARCHING STUDENTS

Once *reasonable suspicion*, justifying a search has been established, it is recommended that these general guidelines be followed:

- **Remove the student to a private area.**

Personally escort the student to be searched directly to the office or other private location. Maintain visible contact with the student from the time the student is retrieved from the classroom, or other school area, to the time the student reaches the search location to ensure he/she does not abandon contraband or evidence. At least two staff members should escort the student as a precaution against the student fleeing or resisting school officials. Stops along the way to the search location should not be permitted.

- **Offer the student the opportunity to surrender the items.**

Tell the student what you are looking for and give the student a chance to surrender the item. Before beginning the search, ask the student if he/she has anything in his/her possession that is illegal or violates school rules. If the student hesitates, tactfully advise the student that you have a *reasonable suspicion* to believe that he/she, in fact, possesses such an item. Further, explain that you plan to conduct a search and that it would save everyone time and unnecessary embarrassment if the student cooperates. This type of questioning by a school official is not a custodial interrogation that requires reading the *Miranda* warnings.

- **Ask the student if he/she would give his/her voluntary consent to a search.**

If the student would like to give his/her voluntary consent, use the *Sample Consent to Search Form* above.

- **Closely watch the student during the removal and search.**

If a student is suspected of having a weapon or drugs, the student may try to discard it if the opportunity arises. This can occur from the time the student is told to accompany a school official to the office, up to and including the time when the student is actually in the office and being searched. Never allow a student to follow behind a staff member where the student cannot be observed.

- **Another school official should be present during the removal and search.**

From the inception of the search until the evidence is properly secured, have another school official present as a witness. This strengthens the case against the student and protects the searcher from charges of improper conduct.

- **Have school officials of the same gender as the student conduct and witness the search.**

Student searches should be conducted and witnessed by school officials of the same gender as the student. This will protect the student's rights and guard the searcher against charges of improper conduct.

- **Search the student for items connected to a crime or school rule violation.**

- **Seize any item that:**
  - (1) is illegal;
  - (2) is evidence of a crime; or
  - (3) is evidence of a school rule violation
- **Personal items that are not prohibited on school grounds must be immediately returned to the student's personal belongings.**
- **Create a chain of custody list for those handling the seized item.**

Carefully document the item(s) seized as it changes hands. This will help to ensure that no tampering with the item occurred after seizure from the student.

- **Inventory any seized item(s) by immediately writing the following:**
  - (1) the description of the seized item;
  - (2) date and time the item was seized;
  - (3) name of the person from whom the item was seized;
  - (4) name of the person who seized the item;
  - (5) name of the person who witnessed the search
- **Place each seized item in a separate, sealed envelope marked with inventory information.**
- **Secure the evidence in a locked storage area with restricted access.**
- **Do not leave the evidence unattended before it is placed in a locked storage area.**
- **Transfer the evidence to a law enforcement officer in sealed envelopes in a timely manner.**

**Special Considerations for Weapons.** Every school should have in place a plan for dealing with students who possess weapons on school property, in school buses, and at school events. Every school administrator, teacher, and staffer should be familiar with the plan. Every incident involving a weapon, or even an allegation that a student has a weapon, should be handled by a law enforcement officer. If a school safety officer or school resource officer is available, that officer should be the first person contacted when a student or other person on school property is reported to have a weapon. Otherwise, a local law enforcement agency — as designated in the school plan for dealing with weapons incidents — should be contacted immediately. Law enforcement officers are specially trained to search and disarm persons bearing weapons at minimal risk to themselves and others. Where a weapon is suspected on school property, any law enforcement officer — not just school safety officers and school resource officers — may conduct a student search based on the *reasonable suspicion* of any school official.<sup>59</sup>

### FREQUENTLY ASKED QUESTIONS

#### **Is there a case that discusses when youth would consider themselves to be in custody for the purposes of Miranda?**

Test for determining whether a suspect is in custody for Miranda purposes is whether, under the totality of the circumstances, a reasonable person in the suspect's position would feel a restraint of his or her freedom of movement, fairly characterized, so that the suspect would not feel free to leave or to terminate the encounter with police.<sup>60</sup>

Florida courts consider the following factors: (1) the manner in which police summon the suspect for questioning; (2) the purpose, place, and manner of the interrogation; (3) the extent to which the suspect is confronted with evidence of his or her guilt; (4) whether the suspect is informed that he or she is free to leave the place of questioning.<sup>61</sup>

On June 16, 2011, the Supreme Court in a 5 to 4 decision, held that so long as the age of a youth is known to the officer or would have been objectively apparent to a reasonable officer, it should be a part of the analysis in considering whether the youth would have considered themselves to be in custody for purposes of Miranda. The Court stated "age" will not be a determinative or even significant factor in every case.<sup>62</sup>

#### **When must a law enforcement officer notify a child's parents that the child is in custody?**

When a law enforcement officer takes a child into custody, Section 985.101(3), F.S., requires the officer to attempt to notify the parent/guardian/legal custodian of the child as soon as possible after the child is taken into custody.

Attempts to notify the parent/guardian/legal custodian of the child shall continue until notification is made or the child is delivered to a juvenile probation officer.

#### **Is there a Florida statute that law enforcement officers must follow in contacting parents after a child is taken into custody?**

There is no Florida statute that states the parents of a child must be notified by law enforcement officers before the child is in custody. Case law has held that statute 985.101(3) clearly requires that person taking a child into custody shall initially and continuously attempt to notify the parents of that child.<sup>63</sup>

#### **Is there a Florida statute that requires parents and juveniles the opportunity to consult with each other prior to questioning?**

No, but courts do say that if either the parent or juvenile requests contact prior to questioning, all questioning must stop.<sup>64</sup>

### **Does the lack of parental notification disqualify a statement/confession from a juvenile?**

There is presently no statutory requirement of parental notification as a pre-requisite to questioning a child. The Florida Supreme Court did find that a confession was unlawfully obtained because there was no *meaningful attempt*<sup>65</sup> to contact the parents. Lack of parental notification will not automatically disqualify a statement/confession, but it is a factor that will be heavily weighed by the court when considering admissibility.

### **What is the charge for knowingly and willfully giving false information to a law enforcement officer during an investigation of a missing child?**

Effective October 1, 2012, Section 837.055 (2), F.S., provides that whoever knowingly and willfully gives false information to a law enforcement officer conducting a missing person investigation involving a child 16 years of age or younger with the intent to mislead the officer or impede the investigation, and the child who is the subject of the investigation suffers great bodily harm, permanent disability, permanent disfigurement or death commits a **felony of the third degree**.

### **What is an RPO?**

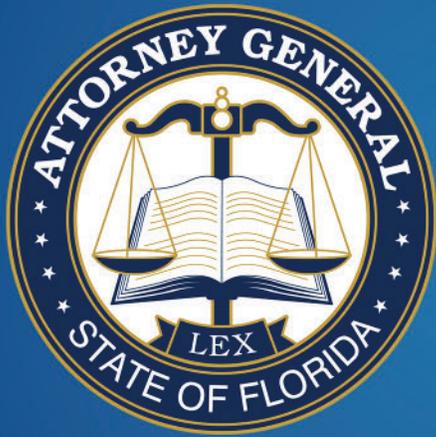
An “RPO” is a risk protection order, a procedure created by Section 790.401, Florida Statutes. Under the statute, a law enforcement officer can file a petition with a court to obtain authorization to temporarily remove firearms or ammunition from the possession or control of a potentially dangerous individual. Where a law enforcement officer becomes aware of credible information concerning a student who poses a significant danger of causing personal injury to himself or herself or others by having a firearm or ammunition in his or her possession, or by purchasing, possessing or receiving a firearm or ammunition, the law enforcement officer should promptly inform school personnel and consider seeking entry of a risk protection order pursuant to Section 790.401, Florida Statutes.

### ENDNOTES

- 1 *New Jersey v. T.L.O.*, 469 U.S. 325 (1985) (“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.”).
- 2 *Id.*
- 3 *Id.* (“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.”)
- 4 *Id.*
- 5 *A.N.H. v. State*, 832 So. 2d 170 (Fla. 3d DCA 2002); *State v. N.G.B.*, 806 So. 2d 567 (Fla. 2d DCA 2002) (*Reasonable suspicion* is the appropriate standard by which to assess the legality of a search by school officials.); *A.H. v. State*, 846 So. 2d 1215 (Fla. 5th DCA 2003).
- 6 *S.V.J. v. State*, 891 So. 2d 1221 (Fla. 2d DCA 2005); *J.D. v. State*, 920 So. 2d 117 (Fla. 4th DCA 2006); *New Jersey v. T.L.O.*, 469 U.S. 325, 341-342 (1985).
- 7 *T.J. v. State*, 538 So. 2d 1320 (Fla. 2d DCA 1989).
- 8 *J.D. v. State*, 920 So. 2d 117 (Fla. 4th DCA 2006).
- 9 *S.V.J. v. State*, 891 So. 2d 1221 (Fla. 2d DCA 2005).
- 10 *Id.*
- 11 *Id.* (The court stated that these factors are a starting point and not a complete and exhaustive list of all possible considerations).
- 12 *T.J. v. State*, 538 So. 2d 1320 (Fla. 2d DCA 1989).
- 13 *C.A. v. State*, 977 So. 2d 684 (Fla. 3d DCA 2008).
- 14 *State v. Whorley*, 720 So. 2d 282 (Fla. 2d DCA 1998) (“Although there was only one tip here, we hesitate to draw a line between one tip and four tips because we believe that school officials must not be required to wait until a certain mechanical number of tips is received before taking action.”); *State v. J.H.*, 898 So. 2d 240 (Fla. 4th DCA 2005); *D.G. v. State*, 961 So. 2d 1063 (Fla. 3d DCA 2007) (A student’s direct statement to a person in authority, indicating personal knowledge of facts which establish that another student is engaging in illegal conduct, may provide school authorities reasonable grounds to search the student, even when the informant student was wrong on a prior occasion).
- 15 *State v. N.G.B.*, 806 So. 2d 567 (Fla. 2d DCA 2002).
- 16 *A.N.H. v. State*, 832 So. 2d 170 (Fla. 3d DCA 2002).
- 17 *A.H. v. State*, 846 So. 2d 1215 (Fla. 5th DCA 2003).
- 18 *C.G. v. State* 941 So. 2d 503 (Fla. 3d DCA 2006).
- 19 *T.A. O’B. v. State*, 459 So.2d 1106 (Fla. 2d DCA 1984).
- 20 *S.V.J. v. State*, 891 So.2d 1221 (Fla. 2d. DCA 2005).
- 21 *J.D. v. State*, 920 So. 2d 117 (Fla. 4th DCA 2006); *New Jersey v. T.L.O.*, 469 U.S. 325 (1985).
- 22 *T.J. v. State*, 538 So. 2d 1320 (Fla. 2d DCA 1989). (“While school safety may readily justify a basic search for weapons, the student’s interest in privacy should preclude a scavenger hunt after the basic search has produced no weapons.”); *Id.* at 1322.
- 23 *State v. D.S.*, 685 So. 2d 41 (Fla. 3d DCA 1996).
- 24 *Id.*
- 25 *Id.*; *See also State v. J.H.*, 898 So. 2d 240 (Fla. 4th DCA 2005) (“...school police officers are held to the same standard as school officials, reasonable suspicion, in order to search students at school.”).
- 26 *K.K. v. State*, 717 So. 2d 629 at 630 (Fla. 5th DCA 1998); *F.P. v. State*, 528 So. 2d 1253 (Fla. 1st DCA 1988).

- 27 *F.P. v. State*, 528 So. 2d 1253 (Fla. 1st DCA 1988).
- 28 See generally *State v. J.T.D.*, 851 So. 2d 793 (Fla. 2d DCA 2003).
- 29 Fla. Stat. § 1006.09(9) (2020).
- 30 *Id.*
- 31 *Id.*
- 32 *M.E.J. v. State*, 805 So. 2d 1093 (Fla. 2d DCA 2002).
- 33 *State v. Maynard*, 783 So. 2d 226 (Fla. 2001).
- 34 *C.N.H. v. State*, 927 So. 2d 1 (Fla. 5th DCA 2006).
- 35 *Id.*
- 36 *Id.*
- 37 *Id.*
- 38 *State v. J.A.*, 679 So. 2d 316 (Fla. 3d DCA 1996).
- 39 *Id.*
- 40 *Id.*
- 41 *Vernonia School District 47J v. Acton*, 515 U.S. 646 (1995).
- 42 *Id.*
- 43 *Id.*
- 44 *U.S. v. Place*, 462 U.S. 696, (1983).
- 45 *Matheson v. State*, 870 So.2d 8 (Fla. 2d DCA 2003).
- 46 *Id.*
- 47 *Safford Unified School District #1 v. Redding*, 557 U.S. 364 (2009).
- 48 *Id.*
- 49 Fla. Stat. § 901.211 (2020).
- 50 *I.R.C. v. State*, 968 So. 2d 583 (Fla. 2d DCA 2007).
- 51 *Id.*
- 52 *Id.*
- 53 *Id.*
- 54 *Id.*
- 55 *A.H. v. State*, 846 So. 2d 1215 (Fla. 5th DCA 2003).
- 56 *State v. Connor*, 803 So. 2d 598 (Fla. 2001).
- 57 *J.D. v. State*, 920 So. 2d 117 (Fla. 4th DCA 2006); *S.D. v. State*, 650 So. 2d 198 (Fla. 3d DCA 1995).
- 58 *Id.*
- 59 *J.A.R. v. State*, 689 So.2d 1242 (Fla. 2d DCA 1997).
- 60 *Monroe v. State*, 148 So.3d 850 (Fla. 1st DCA 2014).
- 61 *Ramirez v. State*, 739 So.2d 568, (Fla. 1999).
- 62 *J.D.B. v. North Carolina*, 131 S.Ct. 2394 (2011).
- 63 *Ramirez v. State*, 739 So.2d 568, (Fla. 1999); *Neely v. State*, 126 So. 3d 342 (Fla. 3d DCA 2013).
- 64 *State v. S.V.*, 958 So.2d 609(Fla. 4th DCA 2007).
- 65 *Ramirez v. State*, 739 So.2d 568, (Fla. 1999).





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