

**RIGHTS AT SCHOOL:
DOES THE CONSTITUTION APPLY?**

**HOW SHOULD SCHOOLS BALANCE THE RIGHTS OF THE INDIVIDUAL
WITH SAFETY FOR ALL?**

THE PROBLEM:

There have been several weapon-related incidents at Waterloo High School. The school is located in a community where several gang incidents have been reported. There are students at the school who are gang wannabes but there are no known gang members attending the school right now. Out of concern for the safety of all students, the administration is considering the following school rules and policies to address what they view to be the current problem and future escalation of violence at school.

PROPOSED RULES FOR VIOLENCE PREVENTION:

1. All students will pass through a metal detector upon entering the school.
2. There will be a school uniform of dark pants or skirts and white shirts. No scarves, hats, or jewelry will be permitted. No coat may be worn inside the school.
3. The administration is authorized to conduct random searches of backpacks and lockers.
4. Sniffer dogs will search cars every day in the parking lot.
5. Random drug tests will be conducted.
6. Undercover police will be enrolled in the school.
7. The school newspaper will not print any article discussing gang activity or politically incorrect issues.
8. All students must sign an agreement not to have conversations with students about gang activities or use racial, religious, or sexually offensive language.
9. Peer mediation training will be mandatory for all students.
10. Family counseling will be offered to all families at no expense.

THE PROBLEM SOLVING PROCESS

The School Board, at the request of a number of groups, has agreed to conduct a public hearing on the proposed rules. Citizens from the following groups have signed up to testify.

Parents Against Totalitarianism in Schools. We believe that students do have constitutional rights at school. We are opposed to schools becoming like prisons and putting more emphasis on controlling students than on educating them. School should be a fun and creative environment that fosters learning, not a penal institution with metal detectors and uniforms. We need to trust students.

Parents for Safety for Students and Teachers. Safety of our children is our number one concern. The last thing we want is to worry each day whether some kid is going to shoot our child. Kids are not adults and they need our protection. We are not worried about their constitutional rights being infringed upon; their safety comes first.

Students Educated to Resolve Violence Everywhere. We do want a safe place to learn. We are concerned that the efforts of all the teachers and administrators are going to be focused on cracking down on everyone. The list of rules goes way beyond what is needed. Let us take responsibility to save ourselves and our fellow students. If everyone participates in peer mediation training most of the problems will be solved.

School Administrators. We have seen what can happen if we do not respond quickly to potential violence in schools. We have seen other schools get completely out of control. Before someone is killed, we want to stop the violence now. We have talked with other schools and these are the recommendations they offered.

Teachers. We are concerned about our own safety at school, but we do not want to be police officers. We know of a school where it took over three hours to get all the students through metal detectors at the beginning of the school day. We have worked hard to involve the community in programs in our school. We are concerned that all our credibility will go out the window if metal detectors greet everyone who comes to our school.

Law Enforcement Officers. Schools are a great place to collect intelligence of potential crimes. Undercover officers will provide additional information. We are concerned with what we know to be the crime problem in other schools not far from here. Given the gang related incidents already, we want to make certain we can control this problem before it gets out of hand.

School Board Members. We must decide on a policy that will effectively stop the violence. We want to avoid litigation over student constitutional rights. We want to respect the rights of students as much as possible.

Small Group Work

1. Pick someone to keep track of time. You will have eight minutes to meet.
2. Discuss the various proposed rules from the position stated with your role. Try to come to agreement on the best way to deal with the problem from the point of view of your group.
3. Then complete the Rule Evaluation Form (below) stating a position and listing three reasons to support your position. Include questions or list additional information you would want in order to make a well-reasoned decision/recommendation.
4. Then select a spokesperson to present your group's position at the School Board meeting.
5. School Board members should read the list of groups and formulate questions to ask each group.

Rule Evaluation Form

In reviewing the proposed rules for violence prevention, discuss the following questions:

1. What is the purpose of the rule?
2. Is a rule necessary or are there better ways to achieve the same purpose?
3. What might be the effects of the rule?
4. What are the strengths and weaknesses of the rule?
5. A good rule should be:
 - Well designed to achieve its purpose
 - Clear and understandable
 - Possible to follow
 - Fair
 - Designed so that it does not interfere unnecessarily with other values, such as privacy, freedom, and individual dignity
6. Should the rule be kept as it is, changed, or eliminated?

State your position:

List three reasons to support your position:

- 1.
- 2.
- 3

SCHOOL BOARD MEETING AGENDA

The Board Chair will call the meeting to order:

"This meeting of the Waterloo School Board will come to order. We are there today to discuss the proposed new policies for the high school. Scheduled to testify today are representatives from parents Against Totalitarianism in School, Parents for Safety for Students and Teachers, Students Educated to Resolve Violence Everywhere, School Administrators, Teachers and Law Enforcement."

Each group will have three minutes to state their position, provide reasons or ask questions. "I will now call Parents Against Totalitarianism in School."

The School Board may respond or ask questions during the presentations.

Once all of the groups have presented, the Board members will summarize the positions they think are most viable in protecting all of the Waterloo High School students while at the same time respecting the rights of individual students.

The Board Chair will adjourn the meeting until next week.

Discussion Questions:

Who are people in the community who might be helpful in providing additional information?

What costs might be associated with your proposal?

Would time be a factor in getting the changes implemented?

What could be done right away? What might be a possible timeline to phase-in other changes?

What guidelines do schools have to follow in making these changes:

Activity developed by Larry Black, Sam Barlow High School in Gresham, Oregon and Marilyn Cover, Executive Director, Classroom Law Project, Portland, Oregon.

LEGAL PRINCIPLES FOR SCHOOL RULES

INDIVIDUAL FREEDOM

Tinker v. Des Moines School District (1968). Supreme Court said that a student armband did not create a "substantial disruption" of the educational process. Students do have constitutional rights at school to freedom of expression. In order to restrict student rights, the school must demonstrate that they have reason to believe that there will be (not might be) a disruption of the educational process.

Goss v. Lopez (1973). Students are entitled to a due process hearing as provided for in the Bill of Rights before being suspended or expelled from school. Due process at school means the student has notice of what school rule was violated and an opportunity to explain his or her side.

SAFETY FOR ALL

TLO v. New Jersey (1985). Students have rights under the Fourth Amendment against unreasonable searches and seizures. In order to search a student's purse, the principal only needs to have reasonable cause to believe there is something in violation of a law or school rule in the purse. This is a lower standard than probable cause, which police must have in order to search unless there are special circumstances.

Hazelwood School District v. Kuhlmeier (1988). School administrators may censor student articles from the school newspaper when it is not a public forum. Censorship must be justified by showing there is not valid educational purpose in the censored material.

Isiah v. State of Wisconsin (1993). Random search of a student's locker by school officials is not a violation of constitutional rights. Complaints of guns prompted the search of the locker. The school rules clearly stated that the lockers are the property of the school and students have no privacy interest in the lockers.