



Via Electronic Mail

December 1, 2008

Kevin Case,
Superintendent
Canton Board of Education
4 Market Street, Suite 100
Canton, CT 06019
(860) 693-7706 - fax

Re: Canton Board of Education Policy 5145-122(a)

Dear Superintendent Case:

I am writing this letter to comment on Canton Board of Education Policy 5145-122(a), which allows drug sweeps in schools. It is the position of the American Civil Liberties Union of Connecticut that this policy unnecessarily infringes on students' civil liberties and should be eliminated.

Schools should be a place of learning and trust. While student safety is extremely important, it should not come at the expense of students' rights. The Supreme Court tells us that students do not shed their constitutional rights at the school house door.¹ The Constitution protects all persons, whether they are eight, eighteen, or eighty-one. These persons maintain their right to privacy and their right to be free from unlawful search and seizure, even if they happen to be students at public high schools. Schools should afford these individuals the same rights the Constitution affords us all, treating them as valued citizens, instead of suspects who are presumed guilty.

Furthermore, there is serious doubt about the policy's effectiveness. Under the current policy, only lockers and school parking lots are subject to search. This means that students wishing to bring drugs to school can easily avoid these sweeps by storing drugs on their persons (e.g., clothing or backpacks). While Canton High School's first drug sweep produced little results, it is likely that as more students realize the limited scope of these sweeps, the policy will become increasingly ineffective.

¹*Tinker v. Des Moines*, 393 U.S. 503 (1969).

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The only way for the Board to remedy this problem is to broaden the policy to allow for on-person sweeps. In other words, develop a policy that allows the police to sweep a student's person, in addition to lockers and parking lots.

On-person sweeps, however, are unconstitutional and would expose the Board to costly and embarrassing lawsuits, like the case of *Alexander v. Goose Creek*, where the ACLU sued a school board in South Carolina for this same issue.² As a result of this litigation, the school's principal resigned and the board paid 1.2 million dollars to settle the case.³

In addition to the aforementioned harms, the drug sweep policy may actually decrease student safety. During sweeps, students are placed on lockdown, where students are kept in classrooms and not allowed to leave. While on lockdown, students are left to their imaginations and may fear a violent threat. Although this fear is likely to dissipate over time, this dissipation may also be problematic, desensitizing students to the lockdown process, causing them to take lockdowns less seriously, and increasing their vulnerability during an actual threat.

There are better ways to keep students safe than suspicion-less drug sweeps. The courts have provided an ample framework for conducting student searches that keep schools safe and protect innocent students from unreasonable searches. Such searches must be based on a reasonable suspicion concerning a particular student. As the Supreme Court explained, the legality of student searches requires that the search be "justified at its inception" and there must be "reasonable grounds for suspecting that the search will turn up evidence that the student has violated or is violating either the law or the rules of the school."⁴

Another alternative to the drug sweep policy would be for the Board to focus its efforts on prevention and other programs to promote drug-free schools. According to the Partnership for a Drug-Free America, 73% of young people believe kids use drugs to deal with pressure at school and 65% use drugs to help them feel better about themselves.⁵ Instead of funding drug sweeps, the Board would do better to concentrate

² For a copy of the complaint see www.aclu.org/drugpolicy/gen/10673lg120031215.html and for a copy of the settlement agreement, see www.aclu.org/drugpolicy/youth/24952lg120060407.html.

³ There have been other successful challenges to on-person drug sweep policies. See *Banks v. Wagner*; www.aclu.org/drugpolicy/youth/10836lg120020725.html and *Whipple v. Lordsburgh Municipal Schools Board of Education* at www.aclu.org/drugpolicy/gen/10897res20040716.html

⁴ *New Jersey v. T.L.O.*, 469 U.S. 325, at 341-2 (1985).

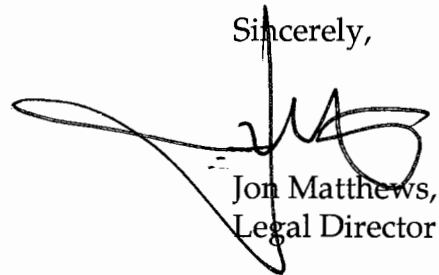
⁵ www.drugfree.org/Portal/About/NewsReleases/School_Pressure

its funding on programs that reduce stress and boost self esteem, like music, art, and sports.

Also, given that students who learn about the risks of drugs at home are up to 50% less likely to use drugs, the Board should use the drug sweep resources to work with groups like the Canton Drug and Alcohol Council.⁶ This group and others like it, work with diverse groups, including educators, students, teachers, civic leaders, and community members, to prevent substance abuse and are an effective alternative these invasive drug sweeps.

It is our hope that the Board adopts these measures and we are happy to collaborate and find other ways to keep schools safe and free. Please contact me if you have any questions or would like to discuss this matter further.

Sincerely,

A handwritten signature in black ink, appearing to read 'JM', is written over a vertical line. The signature is stylized and extends to the left and right of the vertical line.

Jon Matthews,
Legal Director

⁶[www.drugfree.org/Files/2007 Teen Survey](http://www.drugfree.org/Files/2007_Teen_Survey)