

**Searches—
General Rule**

Citizens, including ESC employees, have a right to be free from unreasonable searches and seizures. *U.S. Const. Amendment IV; Tex. Const. Art. I, Sec. 9*

The ESC may search an employee or an employee's property if:

1. There are reasonable grounds to believe that the search will turn up evidence that the employee is guilty of work-related misconduct; and
2. The search is reasonably related in scope to the circumstances that justified the interference in the first place.

O'Connor v. Ortega, 480 U.S. 709, 107 S.Ct. 1492 (1987); *New Jersey v. T.L.O.*, 469 U.S. 325, 105 S.Ct. 733 (1985)

In addition, the ESC may search an employee's workplace for non-investigatory, work-related purposes, if there are reasonable grounds to believe that the search will turn up evidence that the employee is guilty of work-related misconduct. *O'Connor v. Ortega*, 480 U.S. 709, 107 S.Ct. 1492 (1987)

**Drug / Alcohol
Testing**

Blood, urine, and breath tests of public employees to determine drug use are searches under the Fourth Amendment of the U.S. Constitution. *Skinner v. Railway Labor Executives Ass'n*, 489 U.S. 602, 109 S.Ct. 1402 (1989)

**Random Drug
Testing**

Drug tests have been held to be reasonable, even though no warrant has been obtained and there is no individualized suspicion, when the search serves special governmental needs that outweigh the individual's privacy expectation. *Skinner v. Railway Labor Executives Ass'n*, 489 U.S. 602, 109 S.Ct. 1402 (1989); *Nat'l Treasury Employees Union v. Von Raab*, 489 U.S. 656, 109 S.Ct. 1384 (1989)

**Safety-Sensitive
Positions**

Random alcohol and drug testing of employees in some "safety-sensitive" positions has been upheld as a reasonable search. A workplace search may be rendered reasonable where its intrusion on privacy interests is minimized by procedures that prevent its being carried out in an arbitrary and oppressive manner. "Safety-sensitive" positions include those that involve the handling of potentially dangerous equipment or hazardous substances in an environment that includes a large number of children. *Aubrey v. Sch. Bd. of LaFayette Parish*, 148 F.3d 559 (5th Cir. 1998)